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ABSTRACT

This publication takes the strong position that many problems in education can be solved by promoting strong, diverse, and autonomous families. Based on the premise that the family is the fundamental unit of society, the document seeks to empower parents and return public schooling to its original purpose of providing community assistance for families in need. Drawing on the history of education in Utah, the report examines the legal and moral basis of public education, with a special emphasis on parental rights and the role of government in free public education. It discusses the political basis of public education, examining the context of "public good," "essential services," and the issues of state control vs. public control vs. parental control. The document concludes that the real measure of a state's interest in education is the extent to which the state assists parents to become self-reliant and to remain in control of their children's education. It states that educational systems must respect parental control and should rely first on private resources when help is needed and then call on government for help when all else fails. The document offers a blueprint for change and nine recommendations for transforming education. (Contains 211 references.) (RJM)

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Saving Education & Ourselves: The Moral Case for Self-Reliance in Education.

March 2003

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The Sutherland Institute

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The research program of the Institute focuses on the institutions of civil society – families, communities, voluntary associations, churches and other religious organizations, business enterprises, private initiatives – that are solving problems more effectively than large, centralized, bureaucratic government.

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Preface

As the Sutherland Institute has attempted to sort through the myriad of helpful proposals to successfully and effectively reform education in Utah, we believe society has nothing to lose and everything to gain by playing the "family card." We hold the belief that a primary solution to many of the problems we face in education is to encourage strong, diverse, and autonomous families.

We believe that it is natural, good, and healthy for families to respond to the world around them in unique ways. There is diversity to family life, even lives that seem very similar on the outside, that is healthy and that should be encouraged by society. Just as no two people are really alike, no two families are alike either. This power of family diversity has impressed us at the Sutherland Institute as we have pondered how we might become part of a lasting solution to the problems Utah faces with its schools.

Saving Ourselves and Education attempts to offer a course correction; a way out of this educational and political quagmire that will empower parents, bless the lives of children, and return public schooling to its original stated purpose of providing community assistance for those families that need it.

We believe society has nothing to lose and everything to gain by playing the "family card."

Saving Ourselves and Education has been developed with a deep respect for the predominant view in Utah that "family is the fundamental unit of society" and that we should all be interested in the true welfare and future of our children. We note that this view is somewhat of a dividing line: a dividing line between pursuing lasting solutions versus maintaining old institutions.

We have attempted to base the ideas presented upon tried and true, successful, educational traditions from which we have somehow strayed. Still, some of those ideas might be new or uncomfortable to you, in which case, we would ask you to try to take a step back from the strong emotions surrounding the current debate, and consider these ideas objectively and without prejudice.

Our intent is not to overpower the reader, or to monopolize solutions, but to promote the type of honest dialogue and discussion that can improve the lives of children in Utah. In fact, readers will soon notice that our recommendations are very broad; details are scarce. This lack of detail is intentional. We do not have all of the answers. But many of you do. At the very least, we are confident that answers can be found to build upon the solid foundations expressed in this report.

The Sutherland Institute is grateful to many friends and associates who have provided us with constructive criticism and feedback about this report. While several of their recommendations were worked into the body of this research, we feel that a few items should be addressed separately.

Clearly, this report challenges conventional wisdom across the political spectrum. Many "conservatives" who have read our drafts have had the same reactions as "liberals." What seems to be most challenging is the simple idea that our educational traditions might not be sound morally. Questioning these long-standing traditions, especially in moral terms, seems to make some people uneasy.

Perhaps more simply put, much of the negative feedback we have received regards what we are *not* saying in this report *and what some critics assume we are saying*. We feel that with such an important issue we want to have done our best for readers to make sure of what we are *not* saying as much as what we are saying. We also want to help put readers at ease as to our motives.

First, we are *not* saying what has already and constantly been said in criticism of public education. This report is not an indictment of public education as an academic institution. Our motivations for this report do not include the typical complaints such as dismal academic scores or incompetent teachers or the like. Neither is this report a legislative indictment of fiscal spending or priorities. (Of course, all of these aspects come to play here and there as this report ultimately makes specific recommendations, especially with transition policies to take us from where we are to where we think we ought to be.)

Quite apart from all other criticisms of public education as it exists currently, this report makes a moral argument: educational authority – the authority to make educational decisions for children – rests primarily and supremely with parents. This is our sole point and motivation. Recommendations in this report are expressed solely to reorder our education system to this normative value.

This report makes a moral argument: educational authority rests primarily and supremely with parents.

Second, we are *not* saying that public education is functionally inferior to any educational alternatives. That is a point to be argued elsewhere by other people. This report does not concern itself with the functional inferiority or superiority of educational systems per se. This report simply makes a moral argument about how education *ought* to be addressed in public policy.

We recognize that nearly every other suggested reform external to this report does make that type of judgement. Likewise, we recognize that a reader's familiarity with these types of attacks might prejudice his view of this report. Whether the reform concerns "school choice" proposals like tuition tax credits, or more internal reforms such as more money, school uniforms or standardized testing, implicit is the point that public education will somehow function better.

So, to be perfectly clear, our claim does not rest on the functionality of our education system today. Again, what motivates us is not declining test scores or growing school violence. We are not saying that our moral argument is based on the functional breakdown of public education and, hence, our solutions point to a superior way to educate children.

We do, at times, use words like "better" or "good" that imply judgment of the current system. But that we describe a proposal as "better" does not mean that public education is "broken." The alternative to "better" might be "less than optimal," but it does not mean necessarily "bad." Likewise, when we talk of "solutions," we need not ascribe any sense of "evil" to a problem. All of us have problems but that fact alone does not make any of us "evil."

Third, we are *not* saying that parents who choose to use the government program of public education are "bad" parents. This sentiment is bound to surface naturally because we make a "moral" case for

parental control of education. That is, readers who do not agree with our argument might think that their disagreement with a moral case makes them immoral in our eyes. That is not the case at all. We understand that there is a great diversity of thinking on the subject of education.

We realize that it certainly does not help to clarify this point as we utilize a welfare model to flesh out our moral argument. Unfortunately, a welfare model is precisely the best way to understand our argument. Even still, we recognize that some readers might have the tendency to project their own negative views of traditional welfare onto our analysis of a welfare model of education. This would be a mistake and an unfair prejudice toward the intent of this report.

To help readers better understand this comparison it might be helpful at this juncture to introduce a very brief tangent: a previously released Sutherland Institute report on poverty.

Published in April 2002, our *Neighbors in Need: A New Approach to Compassionate Poverty Relief* poverty study addressed how we *ought* to handle welfare and compassionate service as a public policy issue. We made a moral argument for the creation of essential and complementary cultures of charity and self-reliance (as opposed to a traditional reliance on government for poverty relief). We attempted to explain the moral worth and necessity of voluntary charitable relief for the poor among us and equally the moral worth and necessity of accepting a broad, as well as personal, culture of self-reliance.

That poverty study is relevant to this education report. For all intents and purposes, we make the same moral argument regarding public education (a head-to-toe government program) as we did regarding poverty relief. We make a plea for parents to become self-reliant in education and then, in support of a proper role of government in education, we explain how society can help those parents who must be dependent on government to fill this need.

If you read our poverty study (located on our web site, www.sutherlandinstitute.org) you will see that no where do we state, explicitly or implicitly, that people on traditional welfare are "bad." In fact, the broad tone of that study displayed our collective compassion and understanding for the poor among us.

Likewise, no where in this education report do we state, explicitly or implicitly, that parents who use government schools are "bad" parents. We do not state it because we do not believe it. A central premise of this report is that parents always should be given the benefit of the doubt – all parents are judged "fit" until proven unfit under the law. That is, all parents are "good" parents until they show abuse or substantial neglect toward their children.

This report does not challenge people, it challenges the normative values that should apply to discussing education as a public policy issue. Parents are at the heart of our lasting solutions to education. That makes them far from "bad" in our book.

Parents are at the heart of our lasting solutions to education.

Lastly, readers might notice something conspicuously absent in this report, or any report on education, frankly: we do not address the concept of measurements of educational achievement or progress. There are reasons for this omission.

Children are educated for a purpose. Setting aside the discussion of just what that purpose is, an objective implies that progress can be measured. As everyone knows, public education struggles with this issue. Some measurements are too tough, some are too easy, some are inaccurate, and some too accurate. Professional educators impose some measurements, while others are imposed by elected officials.

We have not omitted a discussion or set of recommendations over how we measure educational results because we do not have an interest here. Our omission is actually very practical and in line with the philosophy of this report: *parents are the primary educational authority and parents will decide educational progress.*

This idea might unsettle some readers who feel that the state has a duty to ensure an educated citizenry or for some other readers who might wonder how higher education and businesses will distinguish between qualified and unqualified applicants. We have no easy replies.

For instance, on the one hand, regarding the duties of the state, we simply do not see "ensuring an educated citizenry" as one of them. We do see a duty for the state to provide educational opportunities in a support role to parents, but we do not see its role as ensuring "smart kids" (indeed, that is one of the system's fundamental problems currently). As for higher education and businesses, they are both pretty smart institutions and will sort things out to their satisfaction. They do not need anyone telling them how to do what is in their best interests.

This is not to sidestep the issue of potential "neglect." Some parents, quite few, in reality, will choose not to control the education of their children. That alone could be construed as being an "unfit" parent under the law. These families surface naturally in society. Typically, unfit parents have much broader personal problems than not being willing to control the education of their children. They might have drug or alcohol problems, for instance. The point is that these "unfit" parents eventually surface, and this is where the legitimate role of government steps in to protect children from abuse or substantial neglect.

The alternative to this wisdom (i.e., seeing all parents as fit until proven otherwise) is to begin with the premise that all parents are unfit until proven fit. This change in public policy would be a grievous error of judgment.

The broader point is that measuring educational progress should be left to parents who exercise educational control over their children. The measurements will number as many parents and are completely subjective and relevant to each family. Far from being a threat to democracy, this type of family pluralism is exactly what will keep us free and progressive as a nation.

We hope these points address any concerns about our motives and objectives. The Sutherland Institute looks forward to working with all people of good will to assist families in meeting the real educational needs of their children.

Our personal hope is on behalf of Utah's parents and their children who want something better – better families, better children, and better educational opportunities and experiences.

This report is dedicated to you.

Paul T. Mero
President, Sutherland Institute
March 2003

Introduction

Traditionally, "school choice" reform arguments have centered on the inherent value of market processes, especially the insertion of competition in a clearly monopolistic government school system. Lately, many conservative and free market scholars have revisited the utility of market arguments to address the problems of public education.

For example, in their paper "Choice Thinking," Richard Meinhard and Steve Buckstein of the Cascade Policy Institute write that,

> We will not make major strides toward school choice if we continue to believe that simply teaching the public about the benefits of market education or tinkering with choice proposals will be enough. A new market perspective can't be simply taught. It must develop, like any living system develops, out of its more primitive pro-government form. Our challenge is to understand this transformation.[1]

Similarly, but with a more focused twist, a relevant article in *Education Next* magazine argues that competition alone cannot crack the iron yoke encumbering government schooling. Author Frederick M. Hess, a professor at the University of Virginia, writes that, "Making education competitive requires more than just high hopes; the very culture and rules of public schooling must be overhauled."

He concludes his article,

> It is not clear that we [school choice advocates] are serious about embracing a school system characterized by vigorous competition. For instance, many advocates of charter schooling trumpet the freedom and innovation promoted by choice, but they remain hostile to the ideas of unbridled markets and for-profit operators. This is not an untenable position – one can believe in school choice but not an educational marketplace. However, small-scale competition [e.g., tuition tax credits] is not going to unleash the market bulldozer. It is naïve to pretend that it will.
>
> The essential point is that the effect of competition on public schools is inextricably intertwined with the history and culture of American schooling. Allowing competition to bloom and thrive necessitates shattering these constraints. Advocates of competition must accept this reality.[2]

For three consecutive sessions of the Utah State legislature the issue of tuition tax credits has been hotly debated. Each time the legislature has punted the issue. Two sessions ago a House committee voted to approve tuition tax credits. During last year's session, when advocates spent a great deal of time and money seeking its passage, tax credits never saw the light of day in either chamber. This 2003 session, when even more effort was put into passage, reluctance won the day.

Utah is a model laboratory for school choice reform. Its legislature mirrors its citizenry: largely conservative and Republican. The state's overwhelmingly predominant religion (60 percent of the population) holds to a firm belief in the essential merits of education and educational achievement. Utah is perhaps the most educated state population in America, if we define "educated" as holding a high school diploma. It is a place where you would expect education markets to flourish.

Utah ranks second to last in the nation in educational freedom.

And yet, as the Manhattan Institute recently pointed out, Utah ranks second to last in the nation in educational freedom.[3] Only Hawaii, a state with no local school districts at all, ranks lower. As you might expect of an educational gulag, Utah has one of the highest numbers of per capita government school attendees in the country. We actually have more home schooling families than families utilizing private schools. We have only eleven charter schools; and they came into existence reluctantly. In a state where the entire fiscal budget is $7 billion, government schooling consumes $2.5 billion, or about 36 percent of the budget. And unlike most other states, *all* income tax, both individual and corporate, goes directly to education. Conservative, liberty-loving Utahns seemingly worship government schooling.

In a desperate effort to try to understand this anomaly it dawned on us, as it did Hess, that all government schooling reforms, whether marketplace reforms or administrative ones from within, are "inextricably intertwined with the history and culture of American schooling."

We noticed that public debate in Utah over the tuition tax credit issue fell into two competing camps. The first camp is comprised of those who argue reform from a market perspective. The second camp, government school defenders, is comprised of those who make their arguments in moral terms. Never the twain shall meet. Strong market arguments have been met only with equally passionate moral arguments.

News story after news story has revealed the divergence. One story in the *Salt Lake Tribune*, aimed at highlighting how tuition tax credits would "ultimately leave districts with more money per student," included a solitary opposing comment that "just because a police officer doesn't come to my house doesn't mean I go back and demand a reimbursement from the city."[4] For this critic of tax credits, public education, like our police department, is a public good; a moral argument for most people.

In a point-counterpoint commentary in the *Deseret News*, its resident Republican pleaded to "allow the magic of free market forces to provide natural incentives and rewards for improvement and natural penalties for poor performance." While its resident Democrat responded thusly,

> [M]oney is not the most important thing at stake as we talk of shifting public funds toward private education. Schisms are concerning in Utah. We have the rich getting richer and the poor poorer. We have the split between Mormon and other religions. We have the West Side versus the East Side. And now we want to add to those conflicts a new barrier: public versus private schools? I think not. Religious and community leaders decided a long time ago that Utah should not go the private school route.... [Government schools pay] off later in life and reduce the dimensions of our community fractures.[5]

And, as a final example, in a calculated lobbying campaign against tax credits last year, the Utah Education Association and the Utah School Boards Association released a short video titled "Public Schools are the Right Choice for Utah." Nearly every argument made against tuition tax credits in the video is a moral argument:

- "Public education is the cornerstone of our democratic society."
- "Public schools are where our diverse backgrounds come together to share the common experiences which makes us Americans."
- "Public education is the last great common denominator for this society."
- "Public education is a service to the community … just as fire and police protection."
- "Our schools … are community centers."
- [Public education] is an educational birthright."[6]

These arguments and others like them have pushed us to reflect on the exact morality, if any, underlying public education. Our conclusion is that government schooling does indeed have a proper role in society, but it is a limited and welfare role. Our fundamental and primary education policy should be self-reliance in education.

Our fundamental and primary education policy should be self-reliance in education.

There is a great historical legacy to support this conclusion. The centerpiece of "free," community, or public education during America's first 150 years was parents who did not feel that they were educationally competent or who were not financially able to produce their children's education.

Prior to statehood, Utah had a system of "common schools" established by the early pioneers. These common schools were neither financed with taxes nor were children compelled to attend. Parents who chose not to educate their children at home or in private collectives, but who could pay other people to educate their children, covered their own costs of education. On the other hand, many parents felt they were not competent to teach their children to the level of competency set by early Utah church leaders (i.e., not just literacy, but knowledge of the world sufficient to preach the gospel effectively throughout the world). Neither were many parents able to pay for that level of competency, a level that most often required more experienced instructors. To help meet these needs, neighbors, who were willing and able, assisted with the payment of other children's educational expenses.

The established precedent throughout the first century of life in America, and throughout Utah prior to statehood, was that truly self-reliant families and good citizens did all that they could do to meet the educational needs of their children first. Neighborly, or public, assistance played a role only after all attempts within the family were exhausted to meet those needs. This precedent actually continues to be expressed in Utah laws,

> It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and *education* of their children.... (62A-4a-201) [Ital. Added]

Certainly, and at the very least, Utah state law bears out a legitimate welfare relationship between the state and parents in need of education assistance,

> The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents or guardians and that *the role of state and local governments is to support and assist parents in fulfilling that responsibility.* (53A-6-102) [Ital. Added]

The inescapable question for parents and taxpayers is this: why do typically self-reliant people see their relationship to government programs any differently when it comes to education? That we pay taxes (lots of them) to send our children to public schools is little justification to do so. We also pay taxes to support the needs of others on welfare, yet we do not feel the least bit compelled to join their ranks.

What ideas and sentiments cause many reasonable Americans to forego logic and ignore this stark anomaly in their lives? What idea or ideas allow them to feel passionately justified in keeping themselves off of traditional welfare but equally passionate about placing themselves on educational welfare?

Perhaps the answer, for many of these reasonable people, is that they simply do not see public education as "public assistance"?

Our founding fathers trumpeted the necessity of education to remain a free people. But citing the virtue of education is different than endorsing a *coercive* plan for state control of education – something even the real "education president," Thomas Jefferson, opposed.

From Horace Mann to John Dewey to the National Education Association and its state affiliates, government schooling is a revered public good; perhaps the highest public good. It is necessary, they say, because education is vital to a free society – so vital to freedom, in fact, that we cannot afford any freedom in education. If education is vital to lasting democracy, then certainly we are justified in requiring it of everyone. And if required of all, then coerced upon all.

These arguments in favor of government schooling are just as effective in Des Moines as they are in Salt Lake City. For any true educational reforms to take place, moral arguments favoring educational coercion must face moral arguments in favor of educational freedom. Frankly, those of us who support educational freedom must be able to effectively express why it is both moral and reasonable to move school-age children from government schooling to non-government schooling (i.e., to become self-reliant in education).

We should not be coy about our intentions. All serious school choice reforms seek educational freedom and this freedom has the natural and moral effect of moving children from government schools to private or home schools.

Any serious discussion about public education reform must be a moral discussion fundamentally.

Tuition tax credits are a perfect example. The tax credit is used to create incentives for parents to put their children in private schools or for businesses to contribute to private funds utilized on behalf of low-income children to go to private schools. The objective effect of tax credits is not designed to benefit government schools, even though some versions actually leave an equal proportion of tax dollars in the system. To speak of how tuition tax credits benefit children and simultaneously strengthen government schools is actually a bit disingenuous.

Public education is a moral issue. Most Utahns support public education, not because it is the most efficient way to educate children or because it provides children with the best available learning. We

do not support public education as a matter of right pedagogy. We do it because we feel we have a moral obligation to do it. We do it because of our great societal desire that every child become an educated productive adult, no exceptions.

This is why any serious discussion about public education reform must be a moral discussion fundamentally. There is no use talking about school choice proposals or any other kinds of market-based reforms until we have first addressed the morality underlying public education. And it is this discussion that will point us in the direction of quelling the many controversies surrounding public education, and one that will also show us its true value and its proper, but limited, welfare role in a free society.

The Welfare Analogy

In traditional welfare the unspoken but ironclad rule of society is that no person who is self-reliant would ever consciously or willingly place himself on welfare. It would be appalling, for instance, for a millionaire to place himself or his family on welfare. In fact, society would say that such a circumstance would be highly immoral.

Violating this ironclad rule of personal and family self-reliance would present many problems for society.

Hypothetically, consider the ramifications if this value was stood on its head. What if all Utahns willingly and voluntarily went on government welfare, even and especially the most self-reliant and affluent of families? What if this new way of living came about through overwhelming popular consent?

Suppose, under this new arrangement, that citizens would continue to work, but every dollar earned would be collected by the state, through income taxes, and then redistributed back to the citizenry based upon some kind of government formula.

Assume as well that *not* to participate in this welfare scheme would be viewed as unpatriotic or perhaps even anti-democratic. In other words, a strong spirit of democracy would demand that self-reliant families join dependent families on government welfare.

Systemically, because the delivery of welfare in this hypothetical scenario would be provided by a government program, state bureaucracy would be enormous, probably becoming the largest employer in the state. And of course, implicit in this scenario, citizens would willingly turn over their entire livelihoods to the state, under the assumption that government providers know better than they do about what is best for each member of society. Perhaps only licensed or certified welfare experts would be allowed to manage the system; there also might be a centralized, officially sanctioned manner in which to conduct the welfare program. Government grocery stores and other provisional entities would be in place to meet our needs.

Under this scenario, it is natural to assume that political unity and cooperation would become increasingly difficult. While consensus might be achieved to establish this new system, there would always exist detractors, as well as virulent supporters. Individuals and families desiring to be self-reliant, for example, might not see the need or utility of being a part of such an egalitarian system. Various business supporters of the system might think that they could run it better using management and incentive tools of the free market. Or special interests that benefit financially from the system might insist that they be more highly valued or financially compensated. All participants in this system would be acutely aware that a government program such as this, in a democratic society, would always be open to change at the whim of political machinations and would seek to change the system to their favor.

There would, for instance, never be enough money to make all participants content; there would always be some who would always want more resources to be allocated and others that would never be satisfied with the product or outcomes. The only answer, seemingly, for a burdened system would be repeatedly clear, singular, and simple: the system needs more money.

In terms of human productivity it might be predicted that mediocrity would begin to settle in among system participants. "Payee beneficiaries" (i.e., tax paying welfare recipients) would eventually realize that no matter how much money was paid into the system, their return would remain minimal. Likewise, government employees of the program would eventually realize that performance was hardly an issue within this centralized, monopoly system.

Nevertheless, and notwithstanding the craziness of it all, society would put up with it. It would even defend the faulty system with fervor and tenacity. Critics of the system would be branded "malcontents" and "selfish" and "unpatriotic." The system would invoke the sacred name of "democracy" and proudly presume all it does in the name of the "public good." And so nothing would change.

In reality, who would endure such a nightmarish scenario? Certainly the vast majority of citizens would be appalled at the very idea that we might be forced to live as this extreme scenario suggests. It might even be a cause of revolution in the streets!

Could we imagine a more tortured way to accomplish a welfare objective? Fortunately, traditional welfare systems are only vaguely similar to that scenario. As a society we encourage each other to become self-reliant. Those families that can provide for themselves, personally and financially, are expected to do so. That is a benchmark of good citizenship. Those families that cannot provide for themselves are constantly reminded and encouraged to do so in conjunction with a strong community support system and various safety nets.

As a society we encourage each other to become self-reliant.

While this dreadful scenario does not accurately describe traditional government welfare systems, it does accurately describe the public education system, or government schooling. Here are the hallmarks of this welfare program:

- Government schooling is a top to bottom government program
- Self-reliant families willingly depend on it
- It is coercive for everyone (any exceptions are all government approved)
- It is the largest employer in the state
- All state income tax, personal and corporate, goes to it
- The spirit of democracy is invoked to defend it
- Only licensed and certified teachers are allowed in it
- It is a political football controlled by special interests
- There is never enough money in it to make everyone content
- Productivity is mediocre at best
- Employee morale is low
- Everyone thinks they can change it
- And notwithstanding the craziness of it all, it is supported as it is.

Consider another scenario. What if government schooling were viewed as government welfare? What if those families that can provide their child's education, personally or financially, were

expected to do so? What if those families that could not provide received community learning assistance?

What if those families that can provide their child's education, personally or financially, were expected to do so?

Under this scenario, self-reliant families in education would no longer burden the government school system. They would either be schooling their children at home or contracting privately for their children's education. Numerically, nearly one fifth, or 20 percent, of our current school age population no longer would burden the government system. Without this burden, government school class sizes would be reduced and teachers would feel relieved to give more attention to the remaining students.

More children would be under the direct influence of their parents each day. It would be subjectively assumed that more citizens might begin to more deeply appreciate the commonly held assumption that "family is the fundamental unit of society." This new education ethic would be geared to promote self-reliant families in education. Dependent families would work toward this goal even as they receive helpful community learning assistance.

While we would still assume a collective importance with education, we would no longer live by the constraint of "compulsory schooling" or "compulsory attendance" in government schools.

It might also be subjectively assumed that freedom, community, and democracy would grow stronger because families would become more self-reliant and helpful to their neighbors in need as the responsibility of education is transferred back to the source of its more personal origin.

Under this new scenario, what would become of government schools? Consider this possible structure: Government schools would become neighborhood schools. Most children attending would once again walk to school. Parents would control their children's school because there would be no more centralized government education bureaucracies – the highest school administrator would be the principal of each individual school. He would be the CEO of that school and parents, comprising an individual school board, would be his sole boss.

If local control were realized, teachers could come from anywhere and from any background to teach in their field of specialty without the burden of "official" certification. Their only required qualification would be their knowledge of the subject and their only performance measurement would be success as defined by parents, principals, and children.

While the State Board and State Office of Education would exist they would exist in an auditing capacity only. There would be no more "standardized" requirements or testing; each school would set its own academic goals and objectives.

Money would be plentiful because self-reliant families would no longer burden the system, and yet they would still pay into the system on behalf of dependent families just as they do for traditional welfare.

Politics would no longer enslave the system. Once parents are freed from compulsory attendance

laws, mammoth teachers' unions, and an overblown bureaucracy, political conflicts would disappear. The only interests would be those of parents in and out of the system.

Financially, while the state would continue its mandate to provide a system of government schooling, and while this system would continue to be supported through income taxes, the whole tax structure would be altered to rightly complement this new scenario.

Self-reliant families and households without school age children would pay a low flat rate, 3 percent of their income, to help pay for the community learning assistance received by dependent families. All families with income less than $25,000.00 a year would pay 1 percent of their income in taxes. Dependent families making between $25,000.00 and $75,000.00 a year would pay a flat rate of 7 percent. And families that make over $75,000.00 a year, would pay a flat rate of 9 percent. No deductions, no exemptions, and no credits. The payment structure would be clean, simple, plentiful, and equitable.

The state would dispense a proportion of revenues equally among schools – and directly to the schools. Tax dollars would no longer follow the child. A lesser portion of revenues would be controlled by the state legislature for poor schools or otherwise disadvantaged schools. In this manner, children from poorer families would receive additional subsidies where property tax bases were low.

Utah now operates under the first anomalous scenario. It is reality. Under this first scenario, and as a matter of fact, the state is the fundamental unit of current society. The family has been displaced.

As a matter of fact, the state is the fundamental unit of current society. The family has been displaced.

Utah can achieve this second scenario. But it will take personal and political courage to change. It will take a type of trust in parents and parental dedication heretofore unexhibited. It will also take a new vision of education and schooling.

This report is designed to lead the way toward a brighter educational future and society. This new vision is based on traditional, tried and true, ways. This report presents the legal, moral, and political basis for change followed by a broad blueprint for change.

This report outlines the path to return to the original stated role and function of government schools and recognizes the prevailing public sentiment that all children should be educated to become good and productive citizens and to bless the lives of their families. This report does not pretend to support government schooling in its current form, but neither does it attempt to argue for the abolishment of government schools.

This report distinguishes between *education* and *schooling* where other advocates do not. Schooling is defined simply as a tool of education that comes in many different forms, a government program being one of those forms.

Whereas most "in the box" school reform proposals fall into one of three categories – rules, resources, or markets – our welfare model recommends systemic changes. Parents must ultimately believe that they are fully qualified to make sound educational choices, and they must be willing to retain and exercise their right and responsibility to control the education of their children. Once this core confidence and desire exists, the problems of schooling can be easily solved.

This new vision requires a change in the way society thinks about schools and schooling. This report provides parents with the legal and moral justification to regain control of their children's education. It also provides policymakers with the tools to help parents make this transition. In doing so, jointly, government schooling will be saved in its more traditional role and function and the future of Utah will be bright for all.

The Legal and Moral Basis of Public Education

Introduction

Utahns are an "education" people. They believe in it. They cherish it. They assume a moral obligation to proselyte it openly in the best interests of progress and freedom. Clearly, they desire to see every child educated and government schooling can help do this.

Utahns are also a "family" people. Most subscribe to the view that family is the fundamental unit of society. The familial relationship between parents and children holds a special place in society and continues to be constitutionally protected. Utahns have a natural inclination to protect and encourage their families, and desire that their families be free, independent, and self-reliant. This is generally viewed as the true strength of our state.

Given these views, the great moral question for education is this: should Utahns be dependent upon their government schooling system to educate every child even when many parents can provide for their children's own education? The prior right of parents to control the education of their children, as we will show, produces a parallel prior obligation for society to encourage and allow parents to do so without penalty or perverse incentives to shirk their obligation.

State paternalism claiming a superceding right over the education of all school-age children clearly denies, diminishes, and mitigates this prior right of parental control. Is the promotion of state paternalism moral in a free society? Or is it moral for a free society to promote and encourage self-reliant families?

Is the promotion of state paternalism moral in a free society?

There will always be need of some form of assistance for families as long as parents of school-age children cannot, or are not able circumstantially to, provide for the education of their children. This was the original welfare role of government schools: to do for those who cannot do for themselves after all private resources have been exhausted. This is the most solid historical, moral and legal basis on which government schooling legitimately stands.

Setting the Historical Stage

Americans, indeed all of western civilization, have revered education. We give education a social and moral importance rarely equaled, as a society and personally. Indeed, we have always held that the future of our nation depends largely on good education today.

In his farewell address of 1796, George Washington commented on the benefits of education:

> Promote then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.[7]

Likewise, after his retirement in 1816, Thomas Jefferson said,

> If a nation expects to be ignorant and free in a state of civilization it expects what never was and never will be.... There is no safe deposit [for the functions of government], but with the people themselves; nor can they be safe with them without information.[8]

And James Madison wrote,

> A popular government without popular information or the means of acquiring it is but a prologue to a farce or a tragedy or, perhaps, both. Knowledge will forever govern ignorance: and a people who mean to be their own governors must arm themselves with the powers which knowledge gives.[9]

Clearly, education is essential to progress and future civilization. If we do not learn the lessons of life well, we perish from life's natural, and often harsh, consequences. And yet recognizing the importance of education is not to determine *how* we are to be educated. Education is not schooling. Washington spoke of "institutions for the general diffusion of knowledge." But these institutions could easily have meant the press, churches, and families as much as he may have meant schools and universities.

For over a hundred years, education in America rested on the shoulders of parents.

Nor does the importance of education automatically translate into the coercive state action we experience today. For over a hundred years, education in America rested on the shoulders of parents, and voluntarily so. State compulsory schooling is a more recent phenomenon in western history. In fact, our eighteenth and nineteenth centuries were witness to an ongoing debate over educational freedom versus compulsion. Serious distinctions were drawn at that time between compulsory education, compulsory schooling, and compulsory attendance. The former is where we began the public debate 200 years ago and the latter is where we have now settled.

It is both interesting and relevant to note that the history of education in Utah is no exception to this metamorphosis.

Our Utah state law "acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry." (53A-6-102)

This language was borrowed from decades of federal and state court decisions in support of education in general and government schooling specifically. In the 1954 landmark legal decision, *Brown v. Board of Education* (347 U.S. 483), the United States Supreme Court, in ruling against racial segregation, detailed the state's general interests in government schooling,

> We must consider public education in the light of its full development and its present place in American life throughout the Nation.... Today, education is perhaps the most important function of the state and local governments.... It is the very foundation of good citizenship. Today it is a principle instrument in awakening the child to cultural values, in preparing him for

later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state had undertaken to provide it, is a right, which must be made available to all on equal terms.

At the Heart of Our Education Problems

Understanding the real problems detracting from the success of government schooling is relatively simple. First, the underlying morality and the inherent conflict must be understood between the desire of parents to provide the best possible education for their own children versus society's collective desire for the education of all children. Second, the protracted balancing act within law of those conflicting interests must be understood and eventually appreciated. And third, as it pertains to lasting solutions, it must be understood that both parties are best served when families are encouraged to be self-reliant and when government is encouraged in its proper role.

The first keys to understanding how to solve the problems of education today are these common and persistent legal, historical, and moral themes:

1) **There *does* exist a fundamental constitutional prior right of parents to control the education of their children.**
2) **There *does not* exist a fundamental constitutional right to education.**

A productive search for solutions to our educational woes can only begin when these realities are firmly engrained in our collective understanding. We will begin the search for understanding here.

The United States Constitution and Parental Rights

Parental rights have always superceded any claimed interests of the state in all but seriously exigent circumstances.

In America, parental rights have always superceded any claimed interests of the state in all but seriously exigent circumstances and sharply defined aspects of the "general welfare." This persistently acknowledged legal and moral right was indelibly set in the canons of American jurisprudence with the passage of the Fourteenth Amendment in 1868. The United States Supreme Court's affirmation of the fundamental rights of parents to control the education of their children is unequivocal. It is interesting to note, and no small coincidence, that the Fourteenth Amendment doctrine of parental rights received its twentieth century expressions through the Court because of education issues.

In *Meyer v. Nebraska* (262 U.S. 390, 1923), a case regarding a state law disallowing instruction in foreign languages, the Court held that,

> *Corresponding to the right of control, it is the natural duty of the parent to give his children education suitable to their station in life....* That the state may do much more, go very far, indeed, in order to improve the quality of its citizens, physically, mentally and morally, is clear; but the individual has certain fundamental rights that must be respected.

Two years later the same Court added to the insights from *Meyer* in *Pierce v. Society of the Sisters of the Holy Name of Jesus* (268 U.S. 510, 1925),

> The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the duty, to recognize and prepare him for additional obligations.

Punctuating these decisions was another, *Prince v. Commonwealth of Massachusetts* (321 U.S. 158, 1944), oddly enough a case that actually ruled in favor of state intervention, wherein the Court held,

> It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.... And it is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter.

Much later, in *Wisconsin v. Yoder* (406 U.S. 205, 1972), the Court sided with an Old Order Amish community whose members had been convicted of violating Wisconsin's compulsory public school attendance law. In support of parental rights the Court found,

> The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.

But perhaps the most definitive statement in support for parental rights from the Court is also a more recent statement. (*Troxel et vir v. Granville* No. 99-138, 2000) Writing for the majority, which includes Chief Justice Rehnquist and Justices Ginsburg and Breyer, with Justices Souter and Thomas concurring, Justice Sandra Day O'Conner explained the constitutional basis of parental rights,

> *The liberty interest at issue in this case – the interest of parents in the care, custody, and control of their children – is perhaps the oldest of the fundamental liberty interests recognized by this Court.* More than 75 years ago, in *Meyer v. Nebraska* we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own." Two years later, in *Pierce v. Society of Sisters* we again held that the "liberty of parents and guardians" includes the right "to direct the upbringing and education of children under their control...." We returned to the subject in *Prince v. Massachusetts* and again confirmed that there is a dimension to the right of parents to direct the upbringing of their children....

After reciting a dozen other examples in support of parental rights she concludes,

> In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.

Parens patriae

So what is the role of the state in assisting in the welfare of children? Obviously, no right is absolute and all such rights are weighed against competing interests. A counter-weight in the courts to the fundamental rights of parents is a legal doctrine known as *parens patriae*. *Parens patriae*, literally

"parents of his country," reserves the right of the state to act in the name or "best interests" of society. This legal doctrine is the basis for state intervention on behalf of abused children, mentally ill persons, a raft of economic and environmental issues, and most relevant here, in support of government schooling.

No right is absolute and all such rights are weighed against competing interests.

Utah State Code is clear that, "It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children who are in their custody." It is also clear that, "[It is] the public policy of this state that children have the right to protection from abuse and neglect... Therefore... the state, as *parens patriae*, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare." (Utah State Code 62A-4a-201)

Ideally these two stewardships are compatible: parents have a fundamental right over their children until they abuse, neglect, or do not adequately provide for their welfare. Conflict between these two stewardships occurs in the legislative statutory and executive rulemaking processes of the state wherein the terms "abuse," "neglect," and "adequately provide" are defined. Loose definitions or definitions too broadly applied create conflict with the fundamental rights of parents.

The United States Supreme Court has also spoken on these types of conflicts. In the *Troxel* case cited above, where grandparents sued the mother of their grandchildren for certain visitation rights, the Court held in favor of the mother. The ruling was partially granted on grounds that a parent is determined to be competent unless compelling proof shows otherwise.

> The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgement required for making life's difficult decisions. More important, historically it has recognized that natural bonds of affection lead parents to act in the best interests of their children.
>
> Accordingly, so long as a parent adequately cares for his or her children (i.e., is fit), there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's child.

The Utah State Constitution and Parental Rights

On June 9, 1982, the Utah State Supreme Court issued a decision that has become the modern basis of all legal and moral understanding regarding parental rights in Utah. The facts of the case were scanty because no evidentiary hearing was held, but the case generally involved the state's Division of Family Services (DFS) seeking to permanently terminate the parental rights of a mother over her four year old son, "J.P."

Then-Justice Dallin H. Oaks wrote the majority opinion for *In re J.P.* (Utah, 648 P.2d 1364) Actually at issue was new legislation, passed in 1980 and amended in 1981, granting broader authority for DFS (now the Department for Child and Family Services, or DCFS) to permanently terminate the rights

of parents over their children. Repealed by the new legislation was the old statutory language allowing termination of rights on a finding that a parent was "unfit or incompetent by reason of conduct or condition seriously detrimental to the child." The new statutory language read that "such termination will be in the child's best interests." The standard for termination shifted, or was lowered, from "seriously detrimental" to simply "the child's best interests." This change in standard was the sole question to be decided by the Court.

This parental right transcends all property and economic rights.

In finding the new statutory language and lower standard unconstitutional, Justice Oaks explained the legal and moral basis of parental rights for all Utahns. This case involving DCFS is particularly relevant to our text at hand regarding education and parental rights. The substantive issues are identical. Hence, this case provides the intellectual framework for clearly understanding the balance between parental rights and the state's interest *parens patriae*. Several points in the case deserve highlighting. We go straight to the majority opinion:

First, parental rights are natural and inherent.

> The rights inherent in family relationships – husband-wife, parent-child, and sibling – are the most obvious examples of rights retained by the people. They are "natural," "intrinsic," or "prior" in the sense that our Constitutions presuppose them, as they presuppose the right to own and dispose of property....
>
> The integrity of the family and the parents' inherent right and authority to rear their own children have been recognized as fundamental axioms of Anglo-American culture, presupposed by all our social, political, and legal institutions. "To protect the [individual] in his constitutionally guaranteed right to form and preserve the family is one of the basic principles for which organized government is established...." "The family is the basis of our society...." "The family entity is the core element upon which modern civilization is founded...."
>
> This parental right transcends all property and economic rights. It is rooted not in state or federal statutory or constitutional law, to which it is logically and chronologically prior, but in nature and human instinct.

Second, Utah law recognizes the fundamental rights of parents over their children.

> We conclude that the right of a parent not to be deprived of parental rights without a showing of unfitness, abandonment, or substantial neglect is so fundamental to our society and so basic to our constitutional order that it ranks among those rights referred to in Article I, Section 25 of the Utah Constitution and the Ninth Amendment of the United States Constitution as being retained by the people....
>
> We conclude that the Utah Constitution recognizes and protects the inherent and retained right of a parent to maintain parental ties to his or her child under Article I, Section 7 and Section 25, and that the United States Constitution recognizes and protects the same right under the Ninth and Fourteenth Amendments.

Third, state interests do not automatically supercede parental rights.

> We do not suggest that the Constitution relegates a child to the status of a mere chattel, to be treated or mistreated by his or her parents according to their pleasure. Consistent with all of the principles discussed above, a parent shown by clear and convincing evidence to be unfit, abandoning, or substantially neglectful can be permanently deprived of all parental rights....
>
> We perceive no incompatibility between the parental rights defined in the present case and the principle that the child's welfare is the "paramount consideration." That principle does not imply that the child's welfare is the sole consideration, to the exclusion of parental rights, nor that a parent's interest is entitled only to the weight it may incidentally receive under the presumption that parental ties are beneficial to the child's welfare. The principle that "the welfare of the child is the paramount consideration" means that parental rights, though inherent and retained, are not absolute; that the state, as parens patriae, has the authority and obligation to assume a parental role after the natural parent has been shown to be unfit or dysfunctional; and that parental prerogatives cannot, at that extreme point, frustrate the state in discharging its duties.

And, fourth, family autonomy is a prime bulwark against tyranny.

> Family autonomy helps to assure the diversity characteristic of a free society. There is no surer way to preserve pluralism than to allow parents maximum latitude in rearing their own children. Much of the rich variety in American culture has been transmitted from generation to generation by determined parents who were acting against the best interest of their children, as defined by official dogma. Conversely, there is no surer way to threaten pluralism than to terminate the rights of parents who contradict officially approved values imposed by reformers empowered to determine what is in the "best interest" of someone else's child.

Family autonomy helps to assure the diversity characteristic of a free society.

The United States Constitution and Public Education

While both "family" and "public education" are no where to be found in the literal text of our United States Constitution, the Court has found through the legal methodology of "substantive due process" the existence of a very fundamental right of parents to control the education of their children. The same fundamental right has not been found regarding government schooling.

The Court has always been quick to point out the high status and regard for education in America, but no where has it found education, public or not, to be a fundamental right in the Constitution.

Justice Lewis Powell, a self-identified liberal on the Court, wrote in *San Antonio School District v. Rodriguez* (411 U.S. 1, 1973),

> This theme, expressing an abiding respect for the vital role of education in a free society, may be found in numerous opinions of Justices of this Court writing both before and after *Brown* was decided.... [T]he key to discovering whether education is "fundamental" is not to be found in comparisons of the relative societal significance of education as opposed to

> subsistence or housing.... Rather, the answer lies in assessing whether there is a right to education explicitly or implicitly guaranteed by the Constitution.
>
> Education, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected.... We have carefully considered each of the arguments supportive of the District Court's finding that education is a fundamental right or liberty and have found those arguments unpersuasive.

In a subsequent ruling, another self-identified liberal justice, William Brennan, concisely summarized the Court's opinion,

> Public education is not a "right" granted individuals by the Constitution. (*Plyler v. Doe* (457 U.S. 202, 1982))

Again, this is not to say that education is not important or not even our highest social priority. This simply means that education is not a fundamental constitutional right. Reflect back on the language cited from *Brown v. Board of Education* at the beginning of this section.

> In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state had undertaken to provide it, is a right, which must be made available to all on equal terms.

The "right" invoked by the Court is the right to the opportunity of an education; and even then, only "where the state had undertaken to provide it," and only then "made available." To be crystal clear on this point: the "right" pertains to the availability of government schooling, but speaks nothing to the general right to an education or where education is provided privately.

It is interesting to note, parenthetically, that "a right to education" is a very elusive concept even for proponents of such a right. Education historian and author Joel Spring, in the preface of his book, *The Universal Right to Education*, ultimately arguing that such a right exists, begins with this stark admission,

"A right to education" is a very elusive concept even for proponents of such a right.

> My original intention was simply to explore human rights education, which I thought had lost touch with its primary mission. However, I discovered that no universal justification for "the right to education" was provided when this idea was proclaimed in 1948 in Article 26 of the [United Nation's] Universal Declaration of Human Rights. Indeed, no one had even bothered to define the meaning of education in "the right to education" except to say that everyone was entitled to elementary schooling....
>
> Without a universal justification for the "right to education" and a universal definition of "education" as provided for in this right, the right is very difficult to protect and implement.[10]

"To Promote the General Welfare"

The state interest in education is sometimes invoked within the context of the "general welfare" clauses contained in the Preamble and Article I, Section 8, of our United States Constitution. The Preamble reads,

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defense, *promote the general Welfare*, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

A quick reference to understanding the role of the Preamble in law – one consistently accepted by all Courts – is provided by former Justice Joseph Story in his *Commentaries on the Constitution of the United States*. Justice Story, who was appointed to the Court by President James Madison, wrote in 1833 of the Preamble that,

> Its true office is to expound the nature and extent and application of the powers actually conferred by the Constitution, and not substantively to create them. For example, the preamble declares one object to be, "to provide for the common defense." No one can doubt that this does not enlarge the powers of Congress to pass any measures which they deem useful for the common defense.

As we have offered, education, let alone government schooling, is not mentioned in the Constitution. The "general welfare" clause does not substantively create its appearance in the document nor does the clause "enlarge the powers" of Congress or anything else to create such a substantive claim. Still, the federal government uses similar language found in Article I, Section 8, of the Constitution ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and *general welfare* of the United States....") to fund education with federal taxes in the name of "general welfare." In funding government schools, Congress explicitly holds that government schooling meets the standard of the "general welfare."

The Utah State Constitution and Public Education

Historically, government schooling is the legal domain of state and local government. Utah is no exception to this legacy. One dominant criterion for achieving statehood was the territorial government's acquiescence to establish government schools in the state, open to all children and free of sectarian control.

One dominant criterion for achieving statehood was the territorial government's acquiescence to establish government schools.

The transition from private common schools to government common schools in Utah occurred during statehood. The literature of early American history is replete with narratives about how similar transitions occurred across the nation, especially the historic struggle between religious and secular education. Early attempts at compulsory public education throughout New England were made in the name of religion to impose a homogenous religious community on society. As we might expect, interdenominational conflicts soon erupted and a secular solution was arrived at, beginning in the 1850s, after decades of social unrest.

The experience of statehood for Utah was a microcosm of what the rest of the nation had felt and, by 1896, the solution was best expressed in our state constitution that government schooling was to "be free from sectarian control." The single most effective way found to prevent sectarian control and to impose a completely secular approach was through state financing mechanisms. Article X, Section 9

of our state constitution states that, "Neither the state of Utah nor its political subdivisions may make any appropriation for the direct support of any school or educational institution controlled by any religious organization." From the moment of statehood, government schooling in Utah became a secular, government-run program.

The Utah State Constitution sets the terms, conditions, and boundaries of government schooling. It directs the state legislature to "provide for the establishment and maintenance" of government schools, including public colleges and universities. It directs that government schooling "shall be free" except for possible fees in secondary schools. The system's "general control and supervision" is vested in a State Board of Education by the state legislature that, in turn, governs a state office of education.

The Utah State Constitution sets the terms, conditions, and boundaries of government schooling.

Often recognized, and most often blamed for problems in the system, is the political nature of this structure. It is a top-down government run program. However, what is often overlooked is that its precise defect is also its greatest strength: the "voice of the people" to instruct the state legislature. And therein lies the wisdom required to govern this "continual struggle" described by some as "the desire of members of society to have educational opportunity for all children [versus] the desire of each family to provide the best education it can afford for its own children." (*San Antonio School District v. Rodriguez*, 411 U.S. 1 (1973))

State law, under 53A-6-102, carefully delineates this delicate balance between the desire to provide anyone with the opportunity to gain an education and the prior rights of parents to control the education of their children,

> The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.
>
> The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.

State Constitutional versus Statutory Jurisdictions

Admission to the Union of the United States of America required the territorial government to establish a system of government schooling. Article X, Section 1 of the state constitution directs the state legislature to establish this system and specifically instructs that the system "be free from sectarian control."

The state constitution does not address or concern private education including home education.

The state jurisdiction over education is, according to the state constitution, limited to government schooling. The state constitution does not address or concern private education including home education. That is, any claimed state jurisdiction over private or home education is a statutory claim and not a constitutional claim. Another way to understand this point is to recognize that, as a condition for granting statehood, the federal government insisted on the establishment of government schools in Utah to take civil power out of the hands of the predominant Latter-day Saint population. The federal government made no such claim upon the Latter-day Saint's attempt to provide their own schooling privately. The constitutional mandate to provide a system of government schooling did not extend to private or familial realms.

Just as the distinction between education and schooling offers a more accurate understanding of education public policy, so too does this distinction between statutory jurisdiction and constitutional jurisdiction. Again, the state constitution directs the legislature regarding *public* education only. Any laws or regulations imposed on private or home education exist at the whim and preference of citizens as voiced through their elected officials. While many statutes are the direct result of a constitutional imperative (i.e., the existence of a government school system), many more statutes lack the same constitutional imperative (i.e., all state laws and regulations regarding private or home education).

A lack of constitutional imperative does not necessarily discount the value or effect of statutory law. Oddly enough, the lack of a constitutional imperative for private and home education may lead some overzealous proponents of government schooling to believe that government schools are more valuable than private or home education. Actually, in positive law and absent any claims of substantive due process to the contrary, the absence of specific constitutional language means that there is no specific constitutional jurisdiction. In other words, a constitutional directive providing for government schools and not private or home education only means that private and home education is a right reserved to, and a dominion of, the people.

Hence, the constitutional instruction that the government school system is to "be free from sectarian control" means explicitly that it is a government program and shall not be controlled by a religion, and implicitly that private and home education are rights reserved to the people.

The Role of Government in "Free" Public Education

Government schooling is not "free" in any sense of the word.

Special interest advocates of the totality and primacy of government schooling as "true" education often invoke an overriding state interest to make their case. The state constitution is reasonably clear that while the state of Utah expresses a fundamental interest in providing a system of government schools, that interest is confined to a limited jurisdiction. Also, no one system of schooling (i.e., government, private, or home) is superior under the law to another system.

More important than what the state constitution does *not* say is what it does say. Article X, Section 2 reads in part, "Public elementary and secondary schools shall be free, except the Legislature may

authorize the imposition of fees in the secondary schools."

Obviously, government schooling is not "free" in any sense of the word. In fiscal year 2002, government schools were appropriated $2.329 billion in operations funding, the state's largest funding category. Utah's entire income tax structure, individual and corporate, is applied to education and it is the second largest recipient of federal dollars in the state.

U.S. Supreme Court Justice William Brennan once opined that government schooling is not "merely some governmental 'benefit' indistinguishable from other forms of social welfare legislation. Both the importance of education in maintaining our basic institutions, and the lasting impact of its deprivation on the life of a child, mark the distinction." (*Plyler v. Doe* 457 U.S. 202, 1982)

Indeed, government schooling is a *highly regarded* form of government program. For some reason it seems to be regarded even more highly in providing for the life of a child, using Justice Brennan's anxious words, than feeding, clothing, or housing a child. The word "free" then, used in its proper context here, simply describes the high regard of this government run program. Few other government programs merit this same sentimental description (parks?); we seem to "pay through the teeth" for all other government programs that do not merit such sentimental value. Again, even in traditional welfare, society is reluctant to describe providing for basic human needs, such as feeding poor children, as "free" in its cost.

The truth is that no government program is "free." In this case, "free" really means that schooling must be free to assist and subsidize parents who call upon its assistance for whatever reason. In other words, this high regard means that all parents, not just those parents lacking personal or financial means to educate their own children, have society's approval to lay claim on the state to provide their children's education. This is "free" education.

It is a curious piece of statecraft for advocates of government schooling to suggest, on the one hand, that education must be free for all people and then, on the other hand, lobby vehemently the state legislature for more money arguing that "all of this does not come free."

There are at least two ways to interpret this general understanding of free schooling. First, and more typically throughout society, is the invented idea that because a government program is highly regarded we can somehow justify the belief that a two billion dollar program is "free." Or second, we could realistically see this same highly regarded government program as the broad welfare program it is for all that hold it in high regard.

Interestingly, state law bears out this second, or welfare, understanding between the state and parents in need of educational assistance,

> The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents or guardians and that *the role of state and local governments is to support and assist parents in fulfilling that responsibility.* (Utah State Code 53A-6-102)

The Welfare Role of Public Education

As government schooling has developed throughout America and in Utah during the transition period from territorial governance to statehood, a public welfare role has been at the heart of its system. The centerpiece of "free" education during those early years were parents who were in fact not, or who did not feel that they were, educationally competent or who were not financially able to produce their children's education.

As government schooling has developed, a public welfare role has been at the heart of its system.

Prior to statehood, Utah had a system of private common schools established by the early pioneers. These common schools were neither financed with taxes nor were children compelled to attend. Parents who chose not to educate their children at home or in private collectives, but who could pay other people to educate their children, covered their own costs of schooling. On the other hand, many parents felt they were not competent to teach their children at the level of competency set by early church leaders (i.e., not just literacy, but knowledge of the world sufficient to preach their gospel effectively throughout the world). Neither were many parents able to pay for that level of competency, a level that most often required more experienced instructors. To help meet these needs, neighbors assisted with the payment of their children's educational expenses.

The established precedent throughout the first century of life in America, and throughout Utah prior to statehood, was that truly self-reliant families and good citizens did all that they could do to meet the educational needs of their children first. Neighborly, charitable or public assistance played a role only after all attempts within the family were exhausted to meet those needs. This precedent continues to be expressed in our laws,

> It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and *education* of their children.... (Utah State Code 62A-4a-201)

Government schooling is indeed, as currently structured, a form of general welfare. How it went from a very special government run program for parents needing help to a comprehensive entitlement program for nearly all parents in the state is another aspect of our educational history that deserves greater attention for future discussion.

Government schooling is indeed, as currently structured, a form of general welfare.

Summary of the Legal and Moral Basis of Public Education

The prior right of parents to control the education of their children produces a parallel prior obligation for society to encourage and allow parents to do so without penalty or perverse incentives to shirk their obligation.

State paternalism claiming a superceding right over the education of all school-age children clearly denies, diminishes, and mitigates this prior right of parental control. Is the promotion of state paternalism moral in a free society? Or is it moral for a free society to promote and encourage self-reliant families?

There will always be need of some form of assistance for families as long as parents of school-age children cannot, or are not able circumstantially to, provide for the education of their children. This was the original welfare role of government schools: to do for those who cannot do for themselves after all private resources have been exhausted. This is the most solid historical, moral and legal basis on which government schooling legitimately stands.

Earlier in this section we cited the oft used quote by the real education president, Thomas Jefferson, "If a nation expects to be ignorant and free in a state of civilization it expects what never was and never will be." Jefferson just might as easily said, "If a nation expects to be *dependent on government to provide all children education* and free in a state of civilization it expects what never was and never will be."

The Political Basis of Public Education

Why does our current government school system exist today? What forces have made government schools what they are? The answers to these questions are important as we consider possible solutions to current school problems.

In doing so, it should not be surprising that we view our current circumstances largely in political terms. After all, government schooling is a government program subject to all the outside influences and machinations that attach to any political issue.

Government schooling is a government program subject to all the outside influences and machinations that attach to any political issue.

It is a truism that "no single set of reasons or social forces" brought government schools into existence. But clearly all school problems in America today can be traced back to very specific political and educational philosophies enforced on society through the power of the state.

> The success of the common school movement [i.e., government schools] represents the victory of one political philosophy over another. Most individuals who supported and worked for a common school system believed that government should play an active role in ensuring the success of the economic and social system and that this was best achieved by centralizing and standardizing governmental processes. Many who opposed the development of the common school system believed that the government that governed best governed least.... They opposed the centralizing tendencies of government and hoped to maximize popular control of the political process by maintaining local control.[11]

It is not the intent of this report to delve into the complex world of political or educational philosophy. But in establishing the political basis of government schooling in America and Utah – an understanding necessary to unravel the current quagmire and to eventually straighten it out – a most profound influence must be acknowledged:

> **The prime controversy surrounding government schooling – that is, the central issue giving rise to all other government school controversies – is the coercive nature of its system.**

Historically, there have been many arguments and visions in support of a vast government school system. None of these arguments or visions would hold any significance for us broadly were it not for the fact that they have been enforced upon us through coercive political power.

Typically, these political and educational philosophies are utopian in nature. Nearly every one has been developed to bring about "the good society." This ideal is not harmful or divisive in and of itself. Indeed, Utah's early pioneers held to this ideal. Only when the coercive power of the state is used to enforce one person's preferential ideal on everyone does it have potential to become harmful or contentious.

Consider for a moment the most dominant arguments and visions expressed historically for the creation of coercive government schooling.

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In pre-Colonial times among the Puritans –

- Maintain the authority of government and religion
- Maintain social distinctions
- Improve material prosperity

After the Revolution –

- Build nationalism
- Shape the "good citizen"
- Reform society

In the early Nineteenth Century –

- Impose particular moral and political values
- Use institutions to perfect man
- Properly socialize children from poor families

In the 1830s and 1840s (the beginning of the common school movement) –

- Decrease political and social conflict
- Solve social problems
- Control local schools through a centralized power
- Shape, form, and direct human nature through government institutions

The Horace Mann era, the 1850s (long held as the godfather of government schooling) –

- A means of social salvation
- Create a common set of moral and political beliefs to achieve political consensus
- Eliminate class consciousness
- Eliminate economic disparities

The influence of unions or the "workingmen's parties" –

- Protect workers from the exploitation of the rich
- Gain political and economic power
- Eliminate distinctions between rich and poor

Religious bigotry (late nineteenth century) –

- Keep the Catholic Church from political power
- Keep Latter-day Saints from political power in Utah

Early Twentieth Century themes –

- Prevent and reduce poverty
- Increase workforce productivity
- Eliminate wrongheaded economic thinking
- Reduce tensions among social classes
- Destigmatize poor classes
- Prepare citizens for the right to vote

The "New Factory" model of the post-Depression era –

- Train and discipline the masses to serve the needs of industrial and urban America
- Socialize students to the requirements of the new factory system

All of these arguments for, and visions of, government schooling through our American experience boil down to four interconnected philosophies:

1. **Political – government schools should play an active role in ensuring economic and social success.**
2. **Cultural – government schools should broadly promote a specific culture and set of values.**
3. **Economic – government schools should be used to prepare workers for jobs within a centralized and controlled economy.**
4. **Social – government schools should be used to achieve social control and social stability of the masses.**

These four interconnected philosophies are at the heart of the controversy over our government school system today. First, they express the social desire to create the "good society." And second, they express the ugly reality that the "good society" can be brought about only by coercion and a certain enlightened and benighted class of citizen (i.e., someone else knows what is best for us).

This is the broad problem.

The objections, of course, are complementary to the problem. Not everyone agrees on the concept of the "good society." Nor does everyone agree that the coercive power of the state should be the vehicle to achieve it even if we did all agree.

In Utah, there exists another basic objection. Utahns largely agree that family is the fundamental unit of society, and it is families and their voluntary organizations (e.g., church), all willfully and freely exercising their moral agency, that create the "good society." In conjunction with this widely accepted belief, Utahns also see parents as the essential class of people, the "enlightened ones," to bring about the "good society."

Herein lies the ultimate conflict.

Former Utah Supreme Court Justice Dallin H. Oaks' words are worth repeating,

> Family autonomy helps to assure the diversity characteristic of a free society. There is no surer way to preserve pluralism than to allow parents maximum latitude in rearing their own children. Much of the rich variety in American culture has been transmitted from generation to generation by determined parents who were acting against the best interest of their children, as defined by official dogma. Conversely, there is no surer way to threaten pluralism than to terminate the rights of parents who contradict officially approved values imposed by reformers empowered to determine what is in the 'best interest' of someone else's child. (*In Re: J.P.*, 1982)

In other words, either the family is the fundamental unit of society or the fundamental unit is something else. Staunch defenders of the primacy of government schools implicitly support the view that the state is the fundamental unit of society; that is, citizens exist for the smooth operations of the state. Justice Oaks' statement is a dividing line of sorts that attacks the centrality of the four interconnected philosophies of government schooling. It neatly defines the struggle at hand. Either the "bulwark of democracy" is government schooling or it is families; and this title cannot be

mutually shared because coercion of the family is the mechanism utilized to impose government schooling.

Either the family is the fundamental unit of society or the fundamental unit is something else.

This last point deserves brief emphasis. The title "bulwark of democracy" can only be claimed naturally and rightfully, not by coercion. It is folly to presume that government schools and parents can ever be "partners in democracy." Compulsory government school attendance laws, by their very coercive nature, preclude an equal relationship: a master and his subjects are far from equal, let alone partners. Schools and parents can only be partners in the future of children when their relationship is based on voluntary association and mutual agreement over the task at hand.

If the state is the fundamental unit of society and government schooling is indeed the bulwark of democracy, then a powerful case can be made to prohibit any exception to the rule of government schools. But, if indeed, family is the fundamental unit of society and families are the real bulwarks of democracy, then we need to rethink the box in which we have placed ourselves.

"Coercion Equals Freedom" and the "Public Good"

The irony of a free people (or at least a people who believe they are free) revering a coercive education system is perhaps best expressed in this one question:

Does the survival of a free society require that its citizens be "unfree" in at least one area, the area of education?

Many people of good will answer this central question with a resounding, no. For them, a free society houses inherent and unavoidable risks. When friends and neighbors fail or when others cannot provide for themselves, we are there to help. They view the ultimate requirement of a lasting free society as each member being self-reliant and that each member encourage each other toward that ideal.

Many people of good will answer this question in the affirmative. These people may feel that most parents cannot be trusted with sole responsibility to ensure their children's education and that the personal and societal stakes are simply too high to be left to the freedom of individuals and parents.

Government schooling is seen in this view, arguably, as an antidote to poverty, crime, civic apathy, social inequality, and a host of other societal ills. Solutions to these problems, it was thought, were too important to leave up to the initiative and self-interest of parents who were viewed as not expressing sufficient interest in or value for the education of their children.

What ideal outweighs freedom? The answer is typically the "public good." We often characterize government schooling as a "public good."

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So, what ideal outweighs freedom? What factor is so compelling as to coerce even the most self-reliant of citizens to set aside their independence and voluntary sense of community for the perceived higher moral call of government schooling?

The answer is typically the "public good."

The Context of "Public Good"

Within our Introduction to this report, if you might recall our first hypothetical scenario, the vast majority of Utahns agreed that traditional welfare should apply to everyone, even self-reliant families. And they did so for the best of reasons and with the very best of intentions. These same generous public sentiments underlie the formation of government schooling. So much so, in fact, that we often characterize government schooling as a "public good."

While economists have their diverse understandings of the term, our understanding of "public good" is typically laced with more personal sentiments of sacrifice. In other words, we find ourselves willing to give up something private (i.e., our children, time, money, resources, etc.) to benefit something public. In this case, we are willing to support a government program of schooling for a variety of higher idealized reasons. We want to do it because we recognize that we have a common interest in making sure that our neighbors and their children are literate and trained and on their way to become good and productive citizens. In our long-term self-interest, sometimes called the "national interest," to protect our personal property and lives from the machinations of crooked politicians, potential criminals, ill-informed neighbors, and dependent bums, we create a common social interest to train all children in what it means to be a good and productive citizen. This is what we typically mean when we say that government schooling is a "public good."

This concept of "public good" creates deep loyalties. We have great personal feelings for our fellow man and sometimes, as with government schools, we take the dramatic step of forcing our ideals onto others by law.

In the "old days," government schooling also served to complement a sense of community fostered in strong families and active churches. There was something very comforting about a community wherein everybody shared the same values, worked, played, and went to school together. No doubt this longing still persists today.

Another arguable quality emanating from the long modern tradition of government schools is its teachers. Teaching is viewed as a noble profession. More frequently than not, schoolteachers are caring, loving, competent servants. Sadly, in government schools, they are given a thankless job within an immovable institution. Parents often blame them, and often wrongfully, for their own child's shortcomings leaving teachers frustrated, demoralized, and defensive. On the other hand, teachers' unions, supposedly their friends, exploit and frighten good-hearted teachers for a variety of onerous political purposes. Meanwhile, good and decent teachers are set adrift in a sea of ingratitude. Perhaps this goodness in the hearts of many of its teachers is the only virtue keeping government schools afloat today.

These are three examples of the "good" we might perceive that comes from government schooling.

Perhaps there are more such examples to add to this list. Unfortunately, most suggested additions are subject to deep and obvious flaws of logic and law.

The "Public Good" Arguments

From Horace Mann to John Dewey to the National Education Association and its state affiliates, government schooling is revered as a public good; perhaps the highest public good. It is necessary, they say, because education is vital to a free society – so vital to freedom, in fact, that we cannot afford any freedom in education. If education is vital to lasting democracy, then certainly we are justified in requiring it of everyone. And if required of all, it must be coerced upon all.

Education is vital to a free society – so vital to freedom, in fact, that we cannot afford any freedom in education?

The "public good" argument comes in a variety of forms. Essentially, the argument rests upon three pillars: 1) there are some things only government schools can do; 2) there are some things that we trust only government schools to do; and 3) "providing public schools ranks at the very apex of the function of a State." (*Wisconsin v. Yoder*, 1972)

Unfortunately for government school-only advocates, each pillar has within it a major deficiency. Each point is flawed.

Consider the first point: there are some things only government schools can do; and we will assume that by this we mean "positive" things. To flesh this out, push this claim in the form of statements based on the strongest, most oft cited virtues of government schooling.

Only government schools can properly:

...educate children. Certainly this is patently false. Children are "properly" and, more importantly, effectively educated in a variety of ways and settings outside of government schools.

...educate poor children. This is false. It may be argued that it is a good thing that a safety net exists for poor children in government schools, but this point is without merit as an argument for government exclusivity in light of many modern opportunities for poor children to attend private, parochial, and even home schools. There are many ways to deliver welfare services without government providing the services itself. Our food stamp program is a good example: the imperative to help the poor does not mean that we open government grocery stores. Nobel Prize winning economist Milton Friedman has written, "Assumption of responsibility by government for educating all children does not require that schooling be delivered in government institutions."[12]

...promote equality. This point implies that the generous sentiment of treating your neighbor as yourself cannot be taught in the home or at church. Or perhaps there is some other meaning for equality in government schools? In terms of human productivity and prosperity we know that equality does not exist in our nation or anywhere in the world, let alone in government schools. In fact, it could be strongly argued that the government school system promotes equality of only one

thing: mediocrity. Within this reality, equality and excellence are mutually exclusive goals.

...ensure that common values are disseminated throughout society. The irony of this point is that common values are the only values that do not have to be disseminated; that is why they are seen as being common. This point usually refers to "common values" deemed official by some authority and totally disregards the essential power and truth underlying former Justice Oaks' statement concerning the importance of group diversity created by family autonomy.

...socialize children. There is a common belief among government school advocates that children are only properly socialized *outside* of the home, away from the stifling influence of the family. Typical of this mind set is a classic statement from the *Encyclopedia Britannica* (1974) under the heading of "Education, Social Aspects of." It states,

> Adolescent peer groups serve very real functions in society. They provide a way in which children can learn to become independent of family authority. In modern society maturity is equated with independence, with the ability to formulate one's own judgments, and with the capacity to take independent action and live by the consequences of that action.
>
> Peer groups provide children with experience of egalitarian relationships not possible in the family. Through peer groups the child is exposed to the values and experiences of dozens of other families, many of which may be greatly different than his own. Through these contacts the child's horizons are broadened, his perceptions widened.
>
> In order for peer groups to serve these important functions the child must get outside of the family and interact freely with children of his own age. The school is ideal for this purpose. Its corridors and classrooms, clubs and activities provide a natural setting for the young to socialize.
>
> In addition, schools provide an environment in which boy-girl relationships and understanding may be developed. This mixing of the sexes in youth performs a valuable function in Western society, in which the selection of mates is based largely on personal choice. Adolescence is a time for testing relationships and forming standards of selection.

Positive socialization happens in the home or not at all.

While laughable today in the face of long, quantifiable experience regarding the negative socialization that occurs in government schools, it remains a common opinion. What any impartial observer is likely to find in the character of government school children generally, left to the mercies of peer dependency, are manifestations of selfishness, rudeness, inconsideration, jealousy, exclusion, and a pervasive culture of destructive conformity unparalleled in society. That many public school children are absent any of these social handicaps is simply a testament of virtuous counter-socialization at home – the constant struggle of attentive parents to undue each evening the negative effects of public school socialization learned throughout the day. In other words, constructive, positive socialization happens in the home or not at all.

The second pillar of "public good" – that there are some things that we trust only government schools to do – is a different creature to argue. This pillar is a matter of pure subjective sentiment absent any real quantifiable evidence. That is, it is an opinion; just as good as any another and carrying the moral significance of such. Defenses of this pillar are typically long on platitudes and

short on particulars. Government schools somehow "safeguard democracy" in a fashion like no other institution in America.

This argument, perhaps best stated in Amy Guttman's book, *Democratic Education*, is based on the central idea that the freedom enjoyed through family autonomy and the competitive marketplace cannot be trusted to educate children properly. In all fairness, she also argues that the state should not be the sole arbiter of educational authority either. Ms. Guttman propounds a theory of "democratic education" that is inclusive of shared authority:

> A democratic state of education recognizes that educational authority must be shared among, parents, citizens, and professional educators even though such sharing does not guarantee that power will be wedded to knowledge, that parents can successfully pass their prejudices on to their children, or that education will be neutral in competing conceptions of the good life....
>
> The broad distribution of educational authority among citizens, parents, and professional educators supports the core value of democracy: conscious social reproduction in its most inclusive form... A democratic state is therefore committed to allocating educational authority in such a way as to provide its members with an education adequate to participating in democratic politics, to choosing among (a limited range of) good lives, and to sharing in the several sub-communities, such as families, that impart identity to the lives of its citizens.[13]

The author goes on to argue that the state must advocate two constraining principles — "nonrepression" and "nondiscrimination" — to fill its mandate to "socially reproduce" itself.

But this is exactly the problem with her analysis: the state is the final authority. Parents, she writes, "cannot be counted upon to equip their children with the intellectual skills necessary for rational deliberation." In other words, parents that are deeply religious cannot be counted upon to teach their children about the diversity and equality of life around them. Some parents will teach their children to hate others based on race, for instance. Other parents will insulate their children from worldly theories such as evolution. Such children cannot be counted upon to grow up to become mature, rational, adults capable of functioning in a democracy. Only the state can ensure model citizens.

The "shared authority" model is specious. Somebody or some entity has the final say. It must always be so. The final authority within this "democratic education" model is the state – John Dewey redux with a twist.

It is very difficult to fail when failure is not allowed or is defined out of existence.

Furthermore, its underlying assumption is specious: parents cannot create rational citizens out of their children. Like the socialization argument before, the truth is that *only* parents can create mature, rational adults and, in fact, do so in spite of what governments teach children in factory schools.

This second pillar of the "public good" reasons that governmental judgment is superior and that government itself is an almost perfect provider. At the heart of this sentiment is a desire among us for security over freedom – and the belief that the tests of time will be passed as long as all members of society can be forced to obey the master plan. It is very difficult to fail when failure is not allowed or is defined out of existence; this last point being most readily manifest in the continual

effort to "dumb down" standards of performance.

The third and last pillar of government schooling asserts that the state has the primary responsibility for educating America's children. Inevitably, the name of Thomas Jefferson is invoked. For instance, "Establish the law for educating the common people. This it is the business of the state to effect and on a general plan."

What government schooling advocates fail to distinguish within the words of Jefferson is his distinction between *education* and *schooling*. Jefferson, like most of our founding fathers and defenders of freedom throughout western civilization during that period, cherished education; he even saw education as an essential virtue of a free people. He and the others did not, however, believe in compulsory government schooling. In fact, it would be safe to argue that Jefferson would be rightly appalled at modern government schooling.

The United States Supreme Court, in *Wisconsin v. Yoder*, went out of their way to address the real sentiments of Jefferson on education,

> When Thomas Jefferson emphasized the need for education as a bulwark of a free people against tyranny, there is nothing to indicate he had in mind compulsory education through any fixed age beyond a basic education. Indeed, Amish communities [defendants in this case that opposed compulsory attendance laws] singularly parallel and reflect many of the virtues of Jefferson's ideal of the "sturdy yeoman" who would form the basis of what he considered as the ideal of a democratic society.

And in a footnote to this point the Court added,

> While Jefferson recognized that education was essential to the welfare and liberty of the people, he was reluctant to directly force instruction of children "in opposition to the will of the parent."

To agree that the state has a vital role in education is not the same thing as arguing that the state must coerce all children into government schools. A long and distinguished legal history concurs with this important distinction.

To agree that the state has a vital role in education is not the same thing as arguing that the state must coerce all children into government schools.

The "Essential Services" Argument

Another oft-used argument by government school advocates is the "essential services" comparison. Education, they say, is every bit as essential to community life as a police or fire department. No one complains, they continue, about paying their fair share for those services, even when they do not personally use them. Neither is the public constantly bombarded with propaganda to privatize those services.

Consider this argument in greater depth. A fire department exists to protect homes and businesses against fire damage. It functions much like an insurance policy. Taxpayers pay into the system

believing that they will receive adequate fire protection, when needed, but hoping (and praying) that they will never need its services. In other words, taxpayers willingly and knowingly support a service they hope never to utilize. Police departments are treated much the same way by taxpayers. We are glad to have them around, but hope never to have need of them ourselves.

Likewise, taxpayers pay for government schools, but most of them use the system everyday, exactly opposite of how everyone rarely uses fire and police services every day.

Pushing a little further, nearly every home in America is equipped with a water hose, water taps, and even a fire extinguisher. When a small fire breaks out it is conceivable that a homeowner can contain the fire himself. The large resources of the fire department are available only if needed. Most homeowners also have the opportunity to protect their homes from criminals with a firearm or some other weapon of choice. If the police are called after a failed attempt at crime, they usually are called for the purpose of adding to or updating the database of criminal activity in that neighborhood.

Essential public services are support systems to self-reliant families.

In both of these cases, these essential public services are support systems to self-reliant families. No rational person who could put out a fire or stop a criminal himself would feel compelled first to call the fire or police departments. In fact, any self-reliant citizen who would rely wholly upon these services rather than act himself would be seen as irresponsible. These essential service analogies do not support the claims of government school advocates. They do, however, support a welfare model of education: pay into the system generally on behalf of those who need to utilize the service – and then hope that you do not have to be one of them.

The Anatomy of a Political System

Before we can recommend specific courses of action to correct the well-intentioned, but mistaken, journey down the path of coercive government schooling, a review must be attempted of the structures created in Utah.

We established in the previous section that the existence of government schooling is mandated by the Utah State Constitution and is to be provided under the direction of the state legislature. The state legislature in turn regulates the activities of a state board of education, a state office of education, and a state school superintendent. The legislature also authorizes the creation of local school districts governed by a district superintendent, local school board, and a district office of education.

Education players in this system elected by the voice of the people include the state legislature and local school boards. Members of the state school board are elected popularly but only after the governor selects those candidates for the ballot. The state school board appoints the state superintendent and local district superintendents are appointed by local school boards.

This infrastructure is coercively financed primarily through our state system of income and property taxes. All Utah families with school-age children answer to the state for the education of their

children (even those families granted exceptions) and, furthermore, the state currently holds out the expectation that all school-age children (an arbitrary age set by the state) will attend government schools unless certain state obligations are met in advance.

This means, in practical terms, that our government school system is a top-down government-run program propagated by two basic tenets, compulsory attendance and universal access, maintained by a closed financing system that penalizes self-reliant families, and run by a bureaucratic network of state institutions generally unresponsive to parental concerns.

Any serious discussion of the political basis of government schooling must also include a brief analysis of its power to compel compliance: compulsory attendance laws. Understanding the brief history and nature of this coercive act is necessary to show how arbitrary such power is and how it need not be imposed to allow true education reform.

Compulsory Attendance

The legal foundation of compulsory education, schooling, and attendance has its roots in the "Poor Laws" of England circa the late 16th century. These statutes required that the poor and their children be provided minimal maintenance and "apprenticeship" training to keep them from being an undue burden on society. Given our nation's historical relationship with England, similar laws were established in early America.

The first compulsory *education* law in America was enacted in 1642 in the colony of Massachusetts Bay. This law required all parents to provide both trade skills and book learning for their children. Parents were the sole agents for the education of their children. Parents failing to live up to these obligations were fined and risked losing their children to other citizens that would provide properly for them. The act was amended in 1648 to allow for the support of schools through local taxation.

In 1647 the governor of Massachusetts passed the nation's first compulsory *schooling* act, known as "The Old Deluder Satan Act." Its enactment was "motivated by the fear of Satan who supposedly used ignorance to keep people from knowledge of the Scriptures thereby damning the race." This legislation provided other firsts: schooling, not just education, was compulsory and teachers were appointed to community schools.

In explaining the creation of this compulsory school system, George Martin, an early historian of the Massachusetts public school system, stated,

> It is important to note here that the idea underlying all this legislation was neither paternalistic nor socialistic. The child is to be educated, not to advance his personal interests, but because the state will suffer if he is not educated. The state does not provide schools to relieve the parent, nor because it can educate better than the parent can, but because it can thereby better enforce the obligation which it imposes.[14]

Oddly enough, during this period of New England education, *attendance* was not compulsory. Education was compulsory (i.e., parents were under obligation) and then schooling was compulsory (i.e., local townships were under obligation). But attendance was not.

Only forty years later all compulsory laws were repealed in New England (the colonial South never

implemented such laws) and remained so until the period preceding the American Revolution.

Several factors led to the reinstatement of compulsory education and schooling laws throughout the post-Revolutionary 19th century. First, Americans challenged all notions of an aristocratic society where only some people were worthy of education. Second, there was an increasing revolt against theocratic rule, especially that of the Puritan era. Third, the huddled masses were pouring into the New World and public sentiment was that these immigrants needed "Americanizing." Fourth, in the post-Civil War years, it was felt that education was essential to protect democracy. Fifth, social reformers saw education as a means to reduce crime, poverty, and illiteracy. And sixth, rapid industrialization required more skilled and literate workers.

But, as authors Kotin and Aikman explain, there was great opposition to the breadth of these laws that now included compulsory *attendance*,

> There was bitter opposition to the compulsory nature of the laws. Many felt that such legislation deprived parents of their inalienable right to control their children, and was an unconstitutional infringement upon individual liberty guaranteed by the Fourteenth Amendment. Opponents also claimed that compulsory education laws were 'monarchical' and that already powerful state governments were arrogating new powers. Claims that the laws were 'un-American' and inimical to the spirit of free democratic institutions were raised.[15]

This same spirit of opposition to compulsory attendance laws has been expressed eloquently by the United States Supreme Court, as previously noted, and by many organized proponents of educational freedom and parental control.

Utah is no exception to this sentiment. Only statehood forced compulsory attendance on its citizens. Prior to that time attendance was voluntary and left up to parents, even amidst the great Mormon influence to seek all learning.

Utah State Code now requires all children ages six through seventeen to be enrolled in, or accountable to, government schools. Most of these children are enrolled in government schools, some are educated at home, and even fewer are enrolled in private schools. Other exceptions to compulsory attendance exist, but government officials determine all exceptions.

Utah State Code now requires all children ages six through seventeen to be enrolled in, or accountable to, government schools.

Utah's compulsory attendance laws (Utah State Code 53A-11-101, 102, 103) are statutory laws set by the state legislature through the State Board of Education. That is, they are arbitrary. Similar laws throughout the United States vary in age criteria and jurisdiction. For instance, Utah's first compulsory attendance law applied to children ages eight to fourteen.

One increasingly important factor in determining the scope and breadth of compulsory attendance laws is the growing welfare state. The movement toward cradle to grave state care pushes for ever-declining age limits. The age ceiling of these laws is always seventeen because the legal definition of a minor is any person under the age of eighteen. But there does not exist a legal age floor and there

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is always a chorus of supporters to lower the age for compulsory attendance from six, typically, to three or four. This movement stems from a combination of pressures: academic opinions, welfare policies, feminist philosophy encouraging mothers to leave the home and socio-economic factors.

For a school age minor to be excused from government school attendance in Utah parents must apply for exemption to their local public school board. A school-age minor *may* be exempted from compulsory attendance if:

- the minor has already completed the work required for graduation from high school
- the minor is taught at home according to the requirements of the state
- the minor suffers from physical or mental conditions which would preclude attendance
- the minor is a chronic discipline problem. Of course, school-age children may attend a state-licensed private school at any time

Punishment for violating these laws, or "truancy," is a class B misdemeanor for the parent of a truant.

State Financing

It should not be surprising that a coercive system of schooling requires a coercive system of financing to fund it. In Utah, all personal and corporate income taxes, and then some, finance government schools.

A coercive system of schooling requires a coercive system of financing to fund it. There is actually a disincentive for, or barrier against, parents to be self-reliant under the current system.

Again, this state system of financing was created in large part to limit the influence of the state's dominant religion in education at the time of statehood. Article X, Section 9 of the state constitution reads, "Neither the state of Utah nor its political subdivisions may make any appropriation for the direct support of any school or educational institution controlled by any religious organization."

It also should not be surprising to note that a coercive system for all, giving rise to a coercive financing scheme for all, would penalize some Utahns to benefit others. In this case, the collateral effect of this exclusive system of financing education is the penalization of parents choosing educational self-reliance. Self-reliant parents with school-age children pay income and perhaps property taxes in support of government schools but they also pay, in addition, for their children's private schooling, at home or not. There is actually a disincentive for, or barrier against, parents to be self-reliant under the current system.

Education financial analyst Quentin L. Quade responds,

> The prerequisite for thinking clearly about school funding policies is to see and acknowledge that naturally and rightly we hold parents responsible for the all-around nurturing of their children. And, with relatively few dysfunctional exceptions, parents of every kind want the welfare of those children. While we want to make special provision for the welfare of the few

> children of dysfunctional or malevolent parents, it is a form of social insanity to design the basic, comprehensive funding system as if all, or most, or even many parents were indifferent to the child's welfare. Yet that is precisely what [the current system] does. It puts financial obstacles between parents' love and responsibilities, on the one hand; and the rights and capabilities of those parents, on the other. It imposes on them a severe financial penalty if they want to choose the school they judge best for their sons and daughters. That is wrong, it is unbalanced, and it is unnatural....
>
> [The current system] is designed as if most parents, most of the time, do not want or are unable to pursue their children's welfare. It is, thus, a *general* system shaped for the *aberrant*. It is as if, instead of quarantining the few stricken, we quarantine all of those who are well. That is the imbalance and irrationality of school funding's status quo.[16]

State Control vs. Local Control

As we look to solutions that can effectively transition Utah out of its current school problems, a brief look at the relationship between state and local schooling bureaucracies is necessary.

Under the direction of the state legislature, the State Board of Education has "general control and supervision of the state's public education system." (Utah State Code 53A-1-401) It is charged to "establish rules and minimum standards" for government schools that include teacher certification and qualifications for all government school personnel who provide direct student services, universal access, compulsory attendance, competency levels, graduation requirements, discipline and control of students, and health and safety requirements. The Board also handles all requirements for school design, general education specifications, school sites, federal compliance, student transportation to and from school, and auditing functions. (Utah State Code 53A-1-402) To accomplish all of these services the Board has created a State Office of Education that employs nearly 40,000 government workers, from teachers and bus drivers to administrators and janitors, to oversee that all services are provided and goals met.

Board members are representatives from fifteen separate districts throughout the state. Each is first appointed by the governor to be eligible for election and then elected popularly within a district (a few at-large). In the selection of potential Board members, the governor appoints a nominating committee within each district. One member of the nominating committee must also serve on a local school board within that district, one must be employed as an administrator, one must be a public school teacher, one must be a member of a parent association "that provides direct and ongoing support to public schools," and three others may be selected from the public at large. This group of seven persons then assembles a list of at least three but no more than five candidates for the governor to choose from. The governor selects two among these in each district for popular election.

The mission of the Board is to "provide opportunities for each student to be literate and possess the basic knowledge and life skills necessary to become a contributing citizen in today's society." The tenth out of eleven "Belief Statements" is "meaningful and substantial parental involvement."

Within the framework of our top-down public education system it is very important to understand that local school boards are wards of the state. Their authority is derived from the state legislature and they are directly accountable to the State Board of Education, the state legislature's executive arm.

Local school boards are popularly elected entities created by state laws governing the creation of local school districts. Under state law, local school district's boundaries are created by either county government or municipal government, depending upon whether or not a local school district spans more than one municipality. (Utah State Code 20A-14-201) Two or more school districts may merge and consolidate into one school district with the consent of a majority of board members from the districts involved and with the consent of the county or municipal authority.

A local board of education of a school district with a student population of up to 24,000 students consists of five members. A district with more than 24,000 students may have up to seven members. There exist few criteria for being an eligible board member. A member must be a registered voter in the district from which they are elected and a member must maintain a primary residence in the same district. The only personal qualification of a school board member is that he must take or sign a constitutional oath of office.

Each local district is controlled by its local board of education and is independent of the county or municipal government that determined district boundaries (but is not independent of the State Board). Each local school board also appoints a district superintendent who serves as the board's chief executive officer and who, in turn, administers a local district office. Also, each local school board controls all school property within their district.

All government schools, school districts, and their local boards are accountable to the State Board.

Notwithstanding this seeming autonomy of local school boards to do all "things necessary for the maintenance, prosperity, and success of the schools and the promotion of education," the State Board of Education dictates control of state funds that pay for most every cost as well as control over minimum educational standards. In the end, all government schools, school districts, and their local boards are accountable to the State Board both in reporting annual finances and in reporting annual performance reports.

Charles J. Russo, associate professor of Policy and Urban Education at Fordham University, summarizes succinctly this relationship between local school boards and the state,

> A local school board is typically a quasi-municipal corporation, or political subdivision of the state, created for the sole purpose of administering a public school district. An agent of the state, a local board is responsible for carrying out the mandate entrusted to it by the state legislature; it has no inherent authority apart from that vested in it by the legislature.... Members of a school board are state, not local, officials.[17]

Local Control vs. Parental Control

The final question remains: how do parents fit into this system? Specifically, what real control over their children's education do parents have once they have chosen to place their children in government schools?

In answering these questions we should be careful not to confuse *input in the process* with control. For instance, a government school parent can interface with their child's teacher, either on the spur of the moment or most usually during parent/teacher conferences. Likewise, moving up the system, a parent can meet with a school principal, appear before and petition a local school board, and petition the state school board. A parent may also speak with or write to his elected state officials. These inputs are all a matter of process that may or may not influence the system.

We should be careful not to confuse *input in the process* with control. Once in the system directly, parents have negligible rights.

Direct control is a different matter. In practical terms, all school-age children in Utah must conform to the government school system or face the penalty of law. Of course even private schools are licensed and regulated by the state and all home schooled children are required to register with, and seek approval from, the state. The relationships with the state are relatively easy to understand. More difficult to grasp is the right of parents in government schools to control the education of their children.

Once in the system directly, parents have negligible rights. A parent may talk with a teacher, principle, a local school board, and beyond to seek redress. But it is always the system component that makes the final decision regarding *its* children, not the parent. The closest thing a parent has, as a tool, to affect a government school child's education is a single vote cast in a ballot box in local school board elections or for state representatives. This vital function of democracy does very little for a parent concerned about the specific and immediate needs of his or her child.

The stark reality is that Utah's parents have little control over the education of their children placed in the care of government schools, notwithstanding constitutional and statutory language endorsing the fundamental constitutional rights of parents to that control.

Summary of the Political Basis of Public Education

In April 1983 the United States Department of Education issued a report titled "A Nation at Risk." The report was a comprehensive and critical look at the state of education across the nation. The introduction to this report contains the following sobering thoughts,

> Our nation is at risk.... The educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people. What was unimaginable a generation ago has begun to occur – others are matching and surpassing our educational attainments.
>
> If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves. We have even squandered the gains in student achievement made in the wake of the Sputnik challenge. Moreover, we have dismantled essential support systems which helped make those gains possible. We have, in effect, been committing an act of unthinking, unilateral educational disarmament.

> Our society and its educational institutions seem to have lost sight of the basic purposes of schooling, and of the high expectations and disciplined effort needed to attain them.

The report then offers a startling analysis of the state of education in 1983,

> Each generation of Americans has outstripped its parents in education, literacy, and in economic attainment. For the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents.
>
> It is important, of course, to recognize that the average citizen today is better educated and more knowledgeable than the average citizen of a generation ago – more literate, and exposed to more mathematics, literature, and science. The positive impact of this fact on the well-being of our country and of our lives cannot be overstated. Nevertheless, the average graduate of our schools and colleges today is not as well-educated as the average graduate of 25 or 35 years ago, when a much smaller proportion of our population completed high school and college. The negative impact of this fact likewise cannot be overstated.

That analysis is 20 years old. Has government schooling improved? Or has it digressed?

Utah's government school system is a comprehensive, top-down, government run program. All school-age children and their parents are forcibly accountable to the system. All citizens that pay income and property taxes are also forcibly accountable to the system. The state arbitrarily creates, amends, and dictates the mission of the system and regulates its administration. Parental input to the system is available, but parental control is not allowed. The system is financed through forced tax collections and state redistribution back to "local" school districts run by the state. Funds are also tied to each school child (called the Weighted Pupil Unit, or WPU) thereby reinforcing compulsory attendance laws (i.e., a school district receives funding per child pressuring attendance). Classroom instruction is dictated by the state.

Change *within* this current system can come about only one of two ways: politically or administratively. Either way, there are great incentives to maintain and bloat the status quo. There are few incentives to change the system's basic structure. Changes through political processes are fraught with the perils of partisan politics leaving our children as political pawns. Employees in the system are reticent to force significant change due to the high risk of retribution from bureaucratic administrators that do not want to lose power or radically alter their behavior. Meanwhile, parents, looking in from outside of the system, are helpless to change things one whit.

This description of Utah's government school system presents the folly of departing from the more traditional role of government involvement in education. This system is driven by coercion, sustained by unaccountability, and protected by the potential threat of systemic or administrative retribution and tyranny. This system is publicly shrouded and defended with the pretense of some higher "morality," as though freedom and prosperity would end in America without the status quo system.

Conclusion

The real measurement of the state's interest in education should be the extent to which the state assists parents to become self-reliant and take control of their children's education. The state interest should not be determined by how many school-age children it holds captive each year nor by how much money it can siphon from the pockets of taxpayers.

The real measurement of the state's interest in education should be the extent to which the state assists parents to become self-reliant and take control of their children's education.

Government school-only advocates proclaim the morality associated with the current system. They say it is the only way to ensure equal opportunity, equal access and equal relief in education. They also say, as did their recent forebears before them who created this system, that a coercive system is needed to promote democracy and our future freedoms.

This advocacy appears disingenuous, or perhaps ignorant: a coercive system that produces freedom? This Rousseauian slight of logic seems as sincere as a slavemaster convincing a slave that he is better off in slavery. While freedom can certainly beget slavery (through a series of wrong personal and public choices), slavery can never beget freedom.

There is ample evidentiary research and circumstantial knowledge that many children are taught well outside of government schools. The fact that many parents successfully teach their children at home proves definitively that families can be self-reliant in education. The fact that they do so even against all odds placed on them by the state makes this evidence indisputable. Families can be self-reliant in education.

The existence of private schools, personal tutors, and professional mentors show beyond reasonable doubt that help exists for parents that need help educating their children. Again, private assistance received in spite of state obstacles.

Solutions to saving our government school system, in its more traditional role, wherein it can support the lives of families who might depend on it, preclude treating it like a business and imposing business-like reforms on it. Every organization can be managed better. But management is not the central problem of government schools. Its basic problem is that it has assumed a role for which it may have evolved over time, but for which it never can fulfill. Public education is a government program. It is not a business, nor is it a way of life. It cannot be fixed by "market forces" in its current monopolistic and compulsory operation, nor can it be justified by the breadth of its reach. It is government, plain and simple. It works best when it is limited and after all other private resources have been exhausted.

If Utahns truly believe that the family is the fundamental unit of society, then they ought to enshrine the autonomy, group diversity, and self-reliance of families in all aspects of their lives, even in education. It can be done. It is currently being done by courageous parents who make significant

sacrifices in order to assume their moral and legal responsibility to control the education of their children.

Contrary to speculations from foes of freedom in education, no child need be left behind in an educational system that respects parental control, relies first on private resources when help is needed, and calls on government to help when all else fails. When parents are expected to be responsible, and government officials restrain themselves, the fruits of strong families and educational success will be abundantly manifest.

Public education is a government program. It is not a business, nor is it a way of life. It is government, plain and simple. It works best when it is limited.

The Dark Alternative to Change

Two things are certain to occur if the status quo is perpetuated. First, in the short term, public controversy and contention will escalate as factions within and without the system clash against one another. Children will continue to be pawns and victims in these political intrigues. Second, in the longer term, educational "freedom" will be thrust upon us eventually, whether we like it or not, when the current system collapses from the weight of its own incompetentcies, inefficiencies, over reaching, coercive constraints, and immoralities. Only then, at that point not far distant, educational freedom will exact a much higher price on the lives of families who will be wholly unprepared to live and accept it.

Change is possible. Actually, change is inevitable. The question is whether change will occur thoughtfully and deliberately or through chaos, confusion, and the brute force of circumstances beyond our control.

A Blueprint for Change

How do we get from where we are to where we propose to be? In other words, how do we transition from our government schooling monolith, wherein even self-reliant families burden its system, to a system of education that cherishes and encourages family autonomy and diversity while providing effective community learning assistance for those families in need?

This section of our report provides a general blueprint for making such a transition. Each of the policy recommendations herein effects statutory law, not the state constitution. Each recommendation can be implemented by the Utah State legislature and with the governor's signature.

Our Operational Premise

The welfare model we are proposing creates at least two categories of education families: 1) those families that can provide, personally or financially, their children's education, and 2) those families that cannot now provide, personally or financially, their children's education. The first group of families we refer to as self-reliant in education. The second group of families we refer to as dependent, or in need of community learning assistance.

Other educational family types will necessarily exist in a system without compulsory identities. For instance, some otherwise self-reliant families might choose to remain dependent on community learning assistance. *We strongly recommend no mandatory or formulaic assignment of families.* That is, no law should mandate what families and when those families can burden the system. We should allow only the force of community culture to encourage families to work toward and become self-reliant in education. The doors of educational freedom should swing freely between self-reliance and dependency with society always encouraging families to become self-reliant in education.

Statutory language, such as the following, would begin to create a new culture of educational freedom for parents and establish a firm guidepost for future reform:

"It is the public policy of this state that self-reliant families in education are to be encouraged; that those families that can provide, personally or financially, for their children's education should and are expected to; that those same families should not unnecessarily burden state and local governments.

"It is also the public policy of this state that our government school system exists for dependent families in education and that those families shall receive community learning assistance as needed."

Addressing a Few Misconceptions

Before beginning our recommendations we should also address briefly a few misconceptions that may or may not be deliberately spread by some government school advocates about real education reform.

Misconception #1

"Without government coercion, education will cease."

This popular misconception underlies much of the propaganda in support of coercive government schooling. The truth is that Utahns love education. In many respects Utahns hold education sacred as a religious ideal. To suggest that such commitment will vanish without force or coercion is to suggest that there really is no commitment to education.

Misconception #2

"Without government schools, teachers will vanish."

Our plan keeps government schools intact, even if reformed. As for the prospects of teachers, everyone is a teacher and education is lifelong. Far from becoming a vanishing population, the profession of teaching will add to its ranks by leaps and bounds under our plan. Teachers, even current government schoolteachers, are more than a "certificate." They are typically caring people who enjoy assisting others to learn. They will continue to do so, and more effectively. Under our plan, they will be joined with equal commitment by parents, extended family members, neighbors, the business community and other mentors. This is the communal spirit of education generally sought for in society.

Misconception #3

"Poor children will be left behind."

There are several offensive sentiments behind this false claim. First is the subtle but insidious assumption (perhaps racist or steeped in class bigotry) that children from poor families cannot learn without "rich kids" sitting next to them. This "busing mentality" has been destroying the educational esteem of poor children and their families for decades. To suggest that poor children learn any differently than rich children is pure unquantifiable nonsense.

To suggest that poor children learn any differently than rich children is pure unquantifiable nonsense.

If the question surrounding the achievement of children from poor families revolves around school funding, then our plan solves that problem. The entire and singular purpose of our new government schooling plan is to support those families that need community learning assistance; unlike our current system that is burdened with self-reliant families as well.

Misconception #4

"Parents are incapable of teaching their own children."

Even communists at the turn of the century, establishing the Russian Revolution, did not subscribe to this view. In fact, they believed quite the opposite, which is why they established a coercive government school system (i.e., "free education") to teach children in accordance with the state interest unaffected by parental autonomy and diversity.

Are parents smart enough? Consider this dilemma, if parents are not smart enough to control the education of their children, and then turn this control over to elected officials, then who is to say those same parents are smart enough to elect those people to whom they delegate control?

All parents that love their children are capable of controlling the education of their own children and whatever inadequacies may exist in a parent can be compensated for by familial and/or community assistance.

Misconception #5:

"Parents lack the resources to teach their own children."

In our day and age of technological advances and general prosperity there are no legitimate grounds to argue that parents lack the resources to teach their children. Parents that choose to teach their children at home can access their public library, book stores (new and used), the Internet, entire networks of home education resources nationwide, extended family members, friends and neighbors who will assist and help mentor parents. For parents who choose private schools, there are all types and degrees of assistance as well as the continuing government school system for parents that need community learning assistance.

Misconception #6

"Without a coercive system of government schooling, no one will be held accountable."

Accountable to whom and to what? This is one of the strongest points in favor of family autonomy and diversity. Self-reliant families in education, and all those parents that share in this spirit and ideal, are accountable to themselves. A culture of true education requires society to judge all parents fit in providing for their children, unless proven unfit. We must trust parents. Parents are, by far, the most likely human beings in society to care about, and to provide for, the needs of their children and accountability should rest with them and them alone.

If parents are not smart enough to control the education of their children, then who is to say those same parents are smart enough to elect those people to whom they delegate control?

The current "factory" model of government schooling pushes for "standardization" and accountability to the state. In return, the system produces mediocrity for standardization and, in excuse, the politics of blame.

Misconception #7

"We can solve our education problems without real reform."

No we can't.

There is No Need to Fear or Despair

Lastly, the message of this report is also a message of hope for all parents who love their children deeply. From the poorest families to the richest there is hope. Parents are not alone or isolated, but live in a large community that prides itself in volunteerism and caring for those in need.

Parents *can* love their children. Parents *can* get along with their children and lead them effectively. Parents *can* rear good and decent children into good and decent adults. Parents *can* educate bright and intelligent children. But it will take selfless sacrifice and determination to do so.

Society can only effectively assist parents when needed. To shift entirely these parental responsibilities to society is to suffer the problems we have today. It may be easier and more convenient to shift these burdens to others in the short term, but the long term result is the collective failure of society.

The following recommendations are purposefully broad. We present them in this manner with the realization that all true reform requires the input of all parties throughout society. Success requires you, the reader, to accept the right, challenge, and responsibility to educate your children.

Utahns, by and large, are an industrious people. They have proved historically that they can overcome major challenges. They need not fear change.

The future of Utah can truly be bright – but only as citizens fully realize the seriousness of our current circumstances and muster the personal resolve to make appropriate course corrections.

Our Recommendations

The recommendations in this report are emphasized by two components. The first component (recommendations 1a, 1b, 2, and 3) establishes a legal environment wherein self-reliant families will be encouraged. The second component (recommendations 4, 5a, 5b, 6, and 7) establishes a new order for delivering community learning assistance.

We begin with two recommendations that are largely sentimental. They can be reflected in our laws, but ultimately, all of the specific policy recommendations we are proposing will be powerless if we fail to accept these two sentiments.

1a. Family is the Fundamental Unit of Society

Utahns must fully accept and embrace the idea that family is the fundamental unit of society. While this view is frequently expressed, certainly it is not evidenced within the confines of the current government school system.

Utahns must fully accept and embrace the idea that family is the fundamental unit of society.

To the contrary, in practice, Utahns support this coercive institution and by their actions imply that the *state* is the fundamental unit of society. Every moral argument in support of coercive government schooling rests upon the presumption that our obligations to the state are more important than our obligations to our children and families. In essence, Utahns attempt to hold two diametrically opposing views by supposing coercive government schooling is essential to the survival of this nation; and that, absent "public education," freedom and democracy would collapse.

Either Utahns uphold the family as the fundamental unit of society in regard to education or they uphold the state in the same light. The coercive nature of the state requires that a choice be made. Are parents or government the primary caretaker of children? Do we educate children for the purposes of the state or for the personal and familial benefit of the individual?

To choose both parents and government, in some kind of civil balancing act, is to doom society to an endless cycle of conflict and decision making by divisive, brute political force. A broad, coercive government schooling system cannot, by its very nature, long serve both masters. Only absent coercion can a government school system, limited to a desired role and function of community learning assistance for those in need, potentially serve both.

The current system of coercive government schooling does not enshrine the family as the fundamental unit of society. The current system substitutes state for family.

The current system substitutes state for family.

We stress this point because the *institution* of the family is just as important as the *role* of the family in society. When the state, through coercive government schooling or any other program, displaces or replaces the traditional functions of families (i.e., rearing children, feeding them, teaching them values, educating them, even providing for them, etc.), it helps to destroy essential allegiances and

loyalties among family members. For instance, one crucial aspect of problems between youth and their parents today is that youth are torn between the influence of mom and dad versus the more exciting influences of the world into which mom and dad send them each day. Under these competitive circumstances, and within this context of conflicting loyalties, no one should be surprised that children choose peers and outside surroundings to home life, especially as society's institutions increasingly reject traditional parental values.

Today, with the ever-expanding paternalistic roles of society's institutions, government schooling is just one more "brick in the wall" between parents and their children. The strait and narrow path out of this social dilemma is to re-enshrine the paramount importance of the family as the fundamental unit of society.

1b. Parents Must Assume Full and Direct Responsibility for the Education of Their Children

The second sentiment that must be accepted before real education reform can occur is that parents must assume full and direct responsibility for the education of their children.

To assume full and direct responsibility is to be, or strive to become, self-reliant as a family in the education of your children. That is, put over-simplistically, parents alone are responsible for their children in all ways. This responsibility never vanishes from the role of a parent even when others are around to assist in this process when needed.

What good is the *act* of responsibility without a complementary *right* of responsibility?

Concerning its relevance to our current situation, this point means clearly that where this responsibility exists so too does its reciprocal right. What good is the *act* of responsibility without a complementary *right* of responsibility? The coercive nature of the current government schooling system robs self-reliant families of this right and essentially throws buckets of cold water on this parental responsibility.

A whole community of family, friends, and neighbors exists to assist those parents who need help in assuming and maintaining this responsibility. Citizens can even gather under the imprimatur of society to create a "public interest" in helping these struggling families (i.e., we can create a government school system). But to coercively tie all families to government schools in the name of the public interest is to throw the baby out with the bath water. To do so destroys a vital right and an essential responsibility for parents.

2. Amend statutory law regarding compulsory attendance at government schools

This reform would recognize the essential good of self-reliant families in education, encourage self-reliant families to unburden the government school system, and better reflect the state constitution's mission and purpose for education in Utah.

Currently, all school-age minors and their families in the state answer to the government school system. Certain children may be excused from attendance by the local board of education for various reasons, including certain employment arrangements for minors over 16, private schooling, home schooling, adequate completion of high school graduation requirements, certain mental conditions, and extreme disciplinary problems.

Parents who seek their children to be excused must provide "evidence of reasons" for granting an exemption that "must be sufficient to satisfy the local board." (Utah State Code 53A-11-102-2.) Parents who wish to avoid government schooling must first apply for an exemption which includes filling out a special application annually. This application must be submitted to the local school board that makes the final determination as to whether the child should be forced to attend government school or not.

For "delinquent" parents, truancy laws are in place to punish the parents with fines and even prison sentences. (See, for example, 53A-11-101, "Responsibility for minor required to attend school—Penalty for violation," or 53A-11-103, "Duties of boards of education in resolving child's attendance problems—Parental involvement—Issuance of truancy citations—Procedure for contesting citations—Liability not imposed.")

As outlined in previous sections, in a free society where parents have the right to raise their children essentially as they see fit, it is unwarranted to force all parents to send their children, or answer, to government schools. Particularly in Utah, parents value education highly and should have the right to choose education for their children freely.

This reform will help to reinvigorate parents with the realization that they are moral agents and are ultimately responsible for the education of their children. It will also help to reinvigorate neighbors, private charitable organizations, and communities to look out for one another on a more personal and proactive level.

We must distinguish between self-reliant families and families in need of community learning assistance. We must also distinguish, as does our state constitution, between government schooling and all other forms of schooling. Compulsory attendance statutes should be amended to isolate and apply only, if at all, to families with children in government schools. Even then, such statutes should allow free movement of families in and out of government schools.

All families with school age children should have their eyes fixed on self-reliance in education. Some families will not achieve this ideal immediately; some families, understandably, will never achieve it. The government school door must be free to swing both ways in accommodating the individual needs of families.

Lastly, government schools should be allowed to adjust their compulsory attendance regulations to accommodate families on traditional welfare to meet any compliance standards necessary to maintain state objectives for the poor among us.

3. Reconfigure state school financing and our state income structure

This reform reconfigures state school financing by adjusting state income taxes. Under our proposed system, we would no longer penalize self-reliant families in education or families without school age

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children. Certain households falling underneath a specific income limit would pay a low, minimum income tax. Families with school age children with income above a specific limit, and utilizing government schools, would pay state income taxes at a higher rate. All state income tax deductions, exemptions, and credits would be repealed.

We recommend an upper- and lower-tier system of 1 percent/3 percent and 7 percent/9 percent.

One hundred percent of state income taxes go directly to the Uniform School Trust Fund. The state income tax is, therefore, the state government schooling tax. State income taxpayers include families with children in government schools, self-reliant families in education, households with no school age children, and corporations. The "no pay" exemption, along with lower tax rates, are set so low that virtually all state income taxpayers pay at the same tax rate. Exemptions, deductions, and credits apply thereby reducing tax burdens.

Simply put, our current income tax penalizes educationally self-reliant families and rewards dependence. This reform would help mitigate these effects.

Our current income tax penalizes educationally self-reliant families and rewards dependence.

We understand, and are not naïve enough to assume, that some families that could easily be self-reliant might continue to take advantage of the potentially lower cost of placing their children in government schools rather than sacrificing to become self-reliant in education. Again, aside from higher tax payments, we do not recommend coercion as a corrective. Instead, we choose to rely on a new community culture of education (as well as a new tax structure) to encourage such families to not burden our government school system. Government formulas and eligibility requirements have hamstrung our traditional welfare system; we do not need to replicate that obstacle with respect to community learning assistance. Let the doors of government schooling move freely.

New tax rates need to recognize self-reliant families in education and all others. We recommend an upper- and lower-tier personal income tax structure:

1 percent for all families with adjusted gross incomes less than $25,000.00
3 percent for self-reliant families and households without school age children
7 percent for dependent families with adjusted gross incomes over $25,000.00
9 percent for dependent families with adjusted gross incomes over $75,000.00

These rates are suggested and, using current personal income figures, would produce around $2 billion in revenue. We offer these rates as a working model and starting point to begin a public dialogue.

4. Convert all government K-12 schools into autonomous "neighborhood" schools.

This sweeping reform would shift all operational decisions, including policies, spending, staffing, and curriculum, from the state and districts to individual schools. Each government school would be governed by a school community council (i.e., school board) controlled by neighborhood residents. The principal would be the CEO of the school.

Using the label of "community learning assistance," we suggest the acronym of CLASS to replace the misused expression of "public education," as in "the new CLASS program."

While the law provides for governing bodies at the school level, it gives no actual decision-making power to these bodies. Instead, the Utah State Legislature, the Utah State School Board, the Utah State Office of Education, local district boards and local district offices, typically in that order, set the policies that govern operational decisions. Individual school principals carry out these policies, making a handful of operational decisions for themselves.

History teaches us that a plurality of locally controlled neighborhood schools will produce a healthy and diverse population.

As the government school system has grown over the past century, it has become less and less accountable for its successes and failures, and as a result has become increasingly bureaucratic and unresponsive to the needs and desires of teachers, parents, and children. The system's top-down structure is largely responsible for this condition as the politicians and bureaucrats responsible for schools' operational decisions are insulated from public accountability.

In addition, as the scope of government schooling has moved beyond reading, writing, and arithmetic, the system has tacitly expanded it *parens patria* role, involving itself in decisions of child-rearing that also rightfully belong solely to parents. In response, parents have become less self-reliant, relying instead on the wisdom of education experts to make sure their children are properly "socialized."

Re-establishing control of government education at the school level, as was common in the 19th century, will solve many of the concerns people have today. It will restore accountability to schools by requiring communities to monitor their performance, improving educational quality and safety. It will renew the interest of parents in the school life of their children and communities, as they have a more direct voice in the decisions of the school than they did via district school boards and the state legislature. It will save money and untold political and administrative energy that currently flows into mammoth bureaucracies instead of the schools.

Critics may raise the specter of provincialism when parents and the local community assume more control over children's education, arguing that if local forces decide what children will learn, they will become narrow-minded, unsophisticated adults. Our existing system, however, can hardly claim to produce even a majority of cosmopolitan, self-reliant, and democratically responsible adults. In

reality, history teaches us that a plurality of locally controlled neighborhood schools will produce a healthy and diverse population. The unifying character behind these schools will be committed parents and educators, whose esteem of education will remain unchanged.

Converting current government schools into autonomous neighborhood schools will involve several changes, legislatively and administratively, not the least of which are:

1) A new role of limited state oversight.
2) Abolish district structures. Autonomous, neighborhood schools should be able to make their own corporate decisions. As long as these schools are tied to district and state decisions about how they conduct their day-to-day operations, they will never achieve the autonomy needed to excel in education.
3) Restructure funding streams. Education funds must flow directly to the local school and the direct funding of school districts (based on the WPU) must be eliminated.
4) Reconsider class (K-12) structures. There is no heavenly mandate that dictates that school children must be segregated by class or age. We recommend classes targeted at the ability and academic maturity of students; a decision mutually agreed upon by parents, teachers, and the principal. Younger and older students will mutually benefit experientially by such mixing. Furthermore, opportunities for work and service by older students among younger students will build community and help to tear down peer dependencies promulgated by age segregation.
5) Rethink building usage. Non-age segregated classes open up all sorts of creative possibilities for existing school buildings and the thinking that might go into future buildings. At the very least, these recommendations would lead neighborhoods to reconsider building usage. Gigantic high schools, potentially most effected by these recommendations, might be put to better use to serve the community in more diverse ways.
6) Establish independent extracurricular associations to govern inter-school and crossover educational opportunities.
7) Determine new neighborhood school boundaries.

Each of these recommendations, and many others potentially, are essential to decentralizing our current system and empowering parents and neighborhoods to invest intimately in the future of government schooling.

5a. Reformulate the jurisdiction and duties of the Utah State Board of Education

This reform would dramatically diminish the role and impact of the State Board of Education over local schools, school officials, parents, and communities. The new state board would become an executive auditor of school financial habits, would collect information on individual (K-12) government school performances, and provide oversight of new neighborhood school boundaries.

The State Board of Education currently oversees and manages local schools. It has been tasked with numerous assignments, such as:

- Defining curriculum standards.
- Qualifying, certifying, and otherwise evaluating educators and ancillary personnel who provide direct student services.
- Overseeing requirements for attendance, competency levels, graduation requirements, discipline, and school accreditation.
- Governing alternative and pilot programs, curriculum and instruction requirements, school libraries, and services to disabled persons.
- Overseeing state reimbursed bus routes, safety, and operational requirement, and other transportation needs.
- Evaluating school productivity and cost effectiveness, to include federal programs, school budget formats, and financial, statistical, and student accounting requirements.

Years ago, the Utah State legislature oversaw government education and was constitutionally empowered to both establish and maintain government schools (Art. X, Sect. 1). Another entity, the State Board of Education, was later established for "general control and supervision of the public education system… established and elected as provided by statute." This board appointed "a State Superintendent of Public Instruction, who shall be the executive officer of the board" (Art. X, Sect. 3).

Historically, the state board approved decisions made by other government entities and even established policies of its own. The state board theoretically gave parents a small semblance of input over government education as board members were directly elected.

State election code was revised in recent years and now reads (Utah State Code 20A-14-104): "Each individual who wishes to become a candidate for the State Board of Education shall submit a written request for consideration to the nominating committee." Further, "…the Governor shall appoint a nominating committee [in each State Board district] consisting of seven members…"

These nominating committees select three to five names from among all citizens who apply. These names are then submitted to the governor, who selects two of the names to appear on the general election ballot. Board members are, for all intents and purposes, appointed by the governor. One of his appointments is guaranteed ratification in a general election.

Problems of the current system include the fact that the state board is only accountable (in shadow fashion) to the governor. The governor can duck behind the decisions of the state school board by arguing that the people have spoken in a "direct election." The legislature can hide behind their constitutional obligation to oversee government education by passing the buck to the governor. And the school board can ignore the people because the governor conveniently pre-selects them.

In violation of the spirit of the Utah Constitution, the school board has become an arm of the executive branch, has largely usurped the legislative oversight responsibility for government education in general, and lords over the local schools and communities in particular.

Local schools and communities must have the power to decide their own destinies. Forcing top-down methodologies, philosophies, and management directives on a school is a root cause of parental demoralization and disillusionment with the entire process. Neighborhood communities are perfectly capable of making decisions on appropriate hiring and firing, building and property needs, optimum class size with available resources, curriculum and programs, behavior of students and personnel,

transportation, technology, and student advancement requirements up to high school graduation.

Most of the statute regarding the State Board of Education needs to be stricken and relevant language needs to be more narrowly defined.

In addition, this new, limited state school board should be appointed by the state legislature rather than the governor – as the Utah Constitution originally intended for the legislature to be accountable for the overall governance and monitoring of government schooling. This approach also makes more sense because individual legislators are geographically closer to parents than is the statewide office of Governor.

5b. Restructure and limit the relevant functions of the Utah State Office of Education.

This reform would dramatically diminish the role and impact of the State Office of Education over local schools, school officials, parents, and communities. The new State Board would assist the State Board of Education in conducting audits of school financial habits and in collecting information on individual (K-12) government school performances.

Currently, the State Office is not adequately addressed in state statute and is a confusing animal – theoretically operating as an implementation arm of both the State Board of Education and the state legislature. The former entity, however, exercises the greatest control and daily management.

Local control and autonomy cannot be achieved so long as the State Office of Education is empowered by the State Board to place burdensome mandates on schools.

In accordance with its new focus, entire departments within the State Office would be largely, if not completely, eliminated.

6. Decline federal funds for education.

This reform would free Utah to govern its schools as it alone sees fit and would wean the state and local schools off of addictive and counterproductive federal monies and mandates. It would establish a new educational spirit that Utahns take care of their own – if we are calling on families to be self-reliant in education, then we should expect the same from our governmental institutions.

Utah is under no obligation to accept funds from the U.S. Department of Education and other federal entities.

Utah is under no obligation to accept funds from the U.S. Department of Education and other federal entities. Current fiscal year revenue amounts to less than one tenth of our entire government school budget (or approximately $200 million). Nearly all of these federal funds are used to implement federal programs such as school lunch and special needs students (and now the No Child Left Behind

Act) – programs that Utahns can provide for our own children in government schools if desired.

Local schools cannot be considered autonomous if burdened with federal mandates and red tape. To preserve local autonomy, a law should be enacted to prohibit any government school in Utah from accepting federal funds for education.

7. Create an independent commission of businessmen to detail and implement this new approach

The state legislature should create and appoint an independent commission of businessmen to transition this plan into reality. Businessmen, especially small businessmen, are typically problems solvers and can ferret out extraneous and irrelevant nonsense rather quickly. We cannot stress enough the independent nature of this commission – both in not being subject to partisan influences (i.e., state employees, teachers unions, parent-teacher associations, etc.) and in the integrity of its composition (i.e., small businessmen that do not have a stake in state contracts or that benefit exclusively from state regulations).

While this independent commission should be open to all outside voices, their single mission is clear: implement this plan.

Recommendations Summary

To implement this plan successfully will require moral and political courage (perhaps the plan's biggest weakness). A legal environment must be established wherein self-reliant families will be encouraged and a new order must likewise be established for delivering community learning assistance. This is the "answer" to many of the problems of public education. This is also part of the answer to many other social problems that families face today.

We have little response ultimately to offer naysayers. If, after reading this report in its entirety, someone remains adamantly supportive of government schools as usual, then there is not much that can be said in reply. People of goodwill will understand the purpose of this plan and will find it engaging.

People of goodwill will understand the purpose of this plan and will find it engaging.

Neither can we do anything in response to personal sentiments of nostalgia that might lead some people to long for the schools they once knew but can no longer afford, financially, culturally, and politically.

Implementation of this plan, and the recommendations herein, will save our schools and ourselves in education. With the right incentives and public pressure, we could easily see an initial movement of over 100,000 children back into the control of self-reliant families thereby dramatically decreasing the burden on our government school system. We could also easily see education budget surpluses under our new financing scheme. It is all a matter of choice, courage, and determination.

End Notes

[1] Richard Meinhard, Ph.D. and Steve Buckstein, "Choice Thinking," Cascade Policy Institute, September 10, 2001.

[2] Frederick M. Hess, "The Work Ahead," *Education Next*, Winter 2001, pg. 8-13.

[3] Jay P. Greene, "2001 Education Freedom Index," *Civic Report No. 24*, Center for Civic Innovation at the Manhattan Institute, January 2002.

[4] "Analyst: Costs of Tuition Tax Credit Recoupable," *Salt Lake Tribune*, February 26, 2002.

[5] Ted Wilson and LaVarr Webb, "Do Tax Credits Really Help Utahns?", *Deseret News*, February 24, 2002.

[6] "Public Schools are the Right Choice for Utah," video transcript, Utah Education Association and the Utah School Boards Association, distributed October 2001.

[7] Ellwood P. Cubberley, *Public Education in the United States*, Riverside Press, Cambridge, MA, 1919, pg. 59.

[8] Ibid.

[9] Ibid.

[10] Joel Spring, The Universal Right to Education, Lawrence Erlbaum Associates, Mahwah, NJ, 2000, pg. ix.

[11] Joel Spring, *The American School, 1642-1993*, Third Edition, 1994, pg. 92.

[12] *NY Times*, July 2, 2002

[13] Amy Guttman, Democratic Education, Princeton University Press, Princeton, NJ, 1987, pg. 42.

[14] George H. Martin, *The Evolution of the Massachusetts Public School System*, 1894.

[15] Lawrence Kotin and William F. Aikman, *Legal Foundations of Compulsory School Attendance*, Kennikat Press, Port Washington, NJ, 1980, pg. 27.

[16] Quentin L. Quade, *Financing Education*, 1996.

[17] "The Legal Status of School Boards in the Intergovernmental System," *School Boards: Changing Local Control*, edited by Patricia F. First and Herbert J. Walberg, McCutchan Publishing, 1992, pp. 10-11.

Bibliography

Articles

2001 Utah State Legislature, H.B. 48 *Creation of School District,* Sponsor: David N. Cox

A Nation At Risk, www.ed.gov/pubs/NatAtRisk/risk.html. April 1983

Adler, Susan, *Education in America,* The Freeman, The Foundation for Economic Education, Irvington-on-Hudson, New York, February 1993

Aiex, Nola Kortner, *Home Schooling and Socialization of Children* ERIC Digest, Bloomington, Indiana, 1994

Aikin, Wilford, M., *The Story of the Eight-Year Study,* Harper & Brothers, New York and London 1942

Andrews, Lewis M., *More Choices for Disabled Kids, Lessons from Abroad,* Policy Review, April/ May 2002

Antonucci, Mike, *How Large School Districts Lose Sight of the Objective – Student Learning.* AdTI Issue Brief Number 176, www.adti.net November 17, 1999

Ash, Fred, *Schools benefit all of us,* Deseret News, Opinion, Salt Lake City, Utah February 21, 2002

Associated Press, *Big-city school districts strugglin,* Deseret News, Salt Lake City, Utah, June 11, 2000

Associated Press, *Utah Ranked Among Highest In Raising Teachers' Salaries*, Salt Lake Tribune, Salt Lake City, Utah, December 3, 2001

Barzun, Jacques, *Teachers in America*, 1945

Bergstrom, Fredrik and Sandstrom, Mikael, *School Choice Works! The Case of Sweden,* School Choice in Thought, Volume 1 Issue 1, Milton & Rose D. Friedman Foundation, Indianapolis, Indiana, December 2002

Bettman, Will, *Does district ignore parental input?* Deseret News, Salt Lake City, Utah, August 8, 2001

Brouillette, Matthew J., *Certified isn't always best,* www.freep.com/voices/editorials/ebrou_2001 July 6, 2001

Chadwick, Bruce A. and Top, Brent L., *Religiosity and Delinquency among LDS Adolescents,* Journal for the Scientific Study of Religion, 32 (1) 51-67, 1993

Chadwick, Bruce A., Top, Brent L. and Evans, Matthew, *Friends, Faith, and Family: Premarital Sex Among High School Students,* Rough Draft, January 2001

Cornia, Gary C., Walters, Lawrence C., Magleby, David B. and Patterson, Kelly, *Hard Choices Must Be Made If Utah Is to Solve Education Funding Dilemma,* Salt Lake Tribune, Salt Lake City, Utah, February 25, 2001

Cotton, Kathleen, *School Size, School Climate, and Student Performance,* School Improvement Research Series, Northwest Region Educational Laboratory, August 7, 2000

Cotton, Kathleen, *Affective and Social Benefits of Small-Scale Schooling,* ERIC Digests, http://ericir,syr.edu 1996

Coulson, Andrew J., *Toward Market Education: Are Vouchers or Tax Credits the Better Path?* Policy Analysis, Cato Institute, Washington D.C., February 23, 2001

Dewey, Douglas, *How to Separate School and State: A Primer,* The Freeman, www.fee.org 1996

Federal Expenditures, in Utah: FY 1990 to 1999, Utah Foundation Research Report, Report Number 640, Utah Foundation, Salt Lake City, Utah, February 2001

Financing Government in Utah, A Historical Perspective, Utah Foundation, 2000

Finn Jr., Chester E., *Reinventing Local Control,* Education Week, January 23, 1991

Fiscal summary of the 2001 Legislative Session, Utah Foundation Research Report, Report Number 642, Utah Foundation, Salt Lake City, Utah, May 2001

Florez, John, *Utah's Education Leaders must heed warning sign*, Deseret News, Salt Lake City, Utah, July 7, 2002

Friedman, Milton, *The Market Can Transform Our Schools*, New York Times, New York, New York, July 2, 2002

Fulton, Ben, *Is Utah courting disaster with even larger schools?* Salt Lake City Weekly. Salt Lake City, Utah, May 4, 2001

Garrett, Janice, Chadwick, Bruce A., and Top, Brent L., *Peers, Religion, Family, Personality, School, and Delinquency Among LDS Adolescents,* Brigham Young University, Provo, Utah October 2000

Gatto, John Taylor, *Dumbing Us Down,* 1992

Gatto, John Taylor, *Mudsill Theory, the Lancaster Amish and Jaime Escalante,* www.spinninglobe.net/mudsill.html, New York, New York, 1997

Gatto, John Taylor, *The Underground History of American Education, A School Teacher's Intimate Investigation Into The Problems of Modern Schooling,* January 31, 2001

Gatto, John Taylor, *Why Schools Fail: The Real Meaning of Education,* Principles & Perspectives, Number 8, Sutherland Institute, Murray, Utah, Spring 2001

Glenn, Charles L., *Fanatical Secularism, Education* Next, www.educationext.org, Winter 2003

Greene, Jay P., *2001 Education Freedom Index, Civic* Report, Number 24, Center For Civic Innovation at the Manhattan Institute, New York, New York, January 2002

Greene, Jay P., Ph.D., *An Evaluation of the Florida A-Plus Accountability and School Choice Program,* Center For Civic Innovation at the Manhattan Institute, New York, New York, February 2001

Greene, Jay, Hess, Frederick, and Hoxby, Caroline, *The Invisible Hand, Can Competition help public schools?* Education Next, Cambridge, Massachusetts, Winter 2003

Hammond, James Henry, *"The 'Mudsill" Theory", Speech to the U.S. Senate,* www.pbs.org.wgbh/aia/part4/4h3439t.html March 4, 1858

Hornbeck, Mike, *Who will control school?,* Detroit News www.detnews.com, July 1, 2001

Houston, Paul D., *Top Ten Myths About Public Education* http://expers.msn.com/pub/PublicEducationMyths.asp June 11,2001

Howley, Craig, Strange, Marty and Rickel, Robert, *Research about School Size and School Performance in Impoverished Communities,* ERIC Digests, http://ericir,syr.edu 2000

Howley, Craig, *The Academic Effectiveness of Small Scale Schooling (An Update),* ERIC Digest, http://ericir.syr.edu, 1994

Hruz, Thomas, *Wisconsin Teacher Compensation, A Bum Deal or A Plum Deal:* Wisconsin Interest, Volume 10, Number 3, The Wisconsin Policy Research Institute, Thiensville, Wisconsin, Fall 2001

Hsieh, Chia-Lin and Shen, Jianping, *The Effects of Parental Characteristics of School Choice.* Western Michigan University, College of Education, Kalamazoo, Michigan, April 2000

Keller, Bess, *Small Schools Found To Cut Price of Poverty*, Education Week, www.edweek.org. February 9, 2000

L.A. proposal would carve school district into 11 pieces Los Angeles Daily News, Los Angeles, California

Langdon, Phillip, *Students do better in Small Schools. So, why have we been making schools bigger?* The American Enterprise, January/February 2000

Lasley II, Thomas J., and Bainbridge, William L., *School Reforms Go Slowly,* Columbus Dispatch, March 11, 2001

Lawrence, Barbara J., *Utah ACT College Entrance Exam,* Utah State Office of Education, www.usoe.k12.ut.us/eval/ACT00.htm 1999-2000

Lewis, Colene, *Charter School: A Trojan Horse to Home Schooling,* Arizona Families for Home Education, www.afhe.org/charter_schools.htm

Lincoln, Abraham, *Address before the Wisconsin State Agricultural Society,* http://showcase.netins.net/web/creative/lincoln/speeches/fair.htm Milwaukee, Wisconsin, September 30, 1859

Lips, Carrie, *"Edupreneurs" A Survey fo For-Profit Education,* Policy Analysis, Number 386, Cato Institute, Washington D.C. November 2000

Marcus, Morton J., *School Houses, and Ice Cream: The Choices We Make,* Technos Quarterly, Volume 2, Number 1, www.technos.net/journal/volume2/1marcus.htm, Spring 1993

McGee, Jerry C., *Compulsory Attendance vs. Home Instruction,* ERIC Reports, Washington D.C. 1988

Meinhard Ph.D., Richard and Buckstein, Steve, *Choice Thinking: Why does the public ignore, distort or reject school choice facts and arguments?*, Cascade Policy Institute, Portland Oregon, September 10, 2001

Moffitt, John Clifton., *The History of Public Education in Utah*, USA 1946

Moo Ph.D., Greg, *Parental Reform: The Next Movement in Public Education?* Commonwealth Commentary, The Commonwealth Foundation, Harrisburg, Pennsylvania, February 21, 2003

Moloney, William J., *A Look at K-8 schools*, The Sun, October 8, 1996

Murvosh, Marta, *Analyst: Costs of Tuition Tax Credit Recoupable*, Salt Lake Tribune, Salt Lake City, Utah, February 26, 2002

Murvosh, Marty, *Vista Elementary Parents Leave PTA, form New Group*, Salt Lake Tribune, Salt Lake City, Utah, May 27, 2001

Nation's First Workplace Charter School is Thriving in Florida: Think Tank Recommends Other States Follow Florida's Lead, News Release, Reason Public Policy Institute, Los Angeles, California, May 14, 2001

Newbold, Barry, Interview with Deborah Moeller, April 11, 2001

Olsen, Darcy Ann and Lips, Dan, *The Oklahoma Scholarship Tax Credit: Giving Parents Choices, Saving Taxpayers Money*, OCPA Policy Paper, No. 02-1, Oklahoma Council for Public Affairs, Oklahoma City, Oklahoma, February 2002

Olsen, Darcy Ann, *Universal Preschool is no Golden Ticket, Why Government Should Not Enter the Preschool Business*, Policy Analysis Number 222, Cato Institute, Washington D.C., February 9, 1999

Parks, Scott, *Bad Teachers get push toward door*, The Dallas Morning News, Dallas www.Dallasnews.com, February 5, 2002

Pisciotta, John, *Teacher Attitudes in Texas Public and Private High Schools*, Texas Public Policy Foundation, Austin, Texas, December 2000

Pruzan, Adam, *Diligently To Thy children: The Case For School Choice*, Modern Problems, Ancient Solutions Pamphlet No. 1, Toward Tradition, Mercer Island, Washington, 2000

Public Schools are the Right Choice for Utah, Video Transcript, Utah Education Association and Utah School Boards, October 2001

Randall, E. Vance, Hite, Steve J. and Biao, Cheng, *2001 Utah Education Poll, Public Attitudes Towards Public Schools*. Department of Educational Leadership and Foundations, Brigham Young University, Provo, Utah 2002

Raywid, Mary Anne, *Current Literature on Small Schools*, ERIC Digests, www.ed.gov/databases/ERIC_Digests 1999

Rees, Nina Shokraii, *Improving Education for Every American Child*, Heritage Foundation
Richman, Sheldon, *Parent Power: Why National Standards Won't Improve Education*, Policy Analysis, Cato Institute, Washington D.C., April 26, 2001

Rogge, Benjamin A., and Goodrich, Pierre F., *Education in a Free Society,* 1973

Saunders, Jim, *Tax credit OK'd for voucher plan,* Florida-Times Union www.jacksonville.com/tu-online/stories/041301 April 13, 2001

School Choice: Experience with Vouchers and Tuition Tax Credits in Other States, Utah Foundation Report Number 655, Salt Lake City, Utah, January 2003

Schoolchildren First, The Ethan Allen Letter, Number 88, Ethan Allen Institute, Concord, Vermont, August 2001

Shannon, Thomas A., *Local Control and "Organizacrats"* EducationWeek, February 13, 1991

Small Does Work, Rural Policy Matters, www.ruraledu.org, RPM 2.12

Small Schools Reduce Poverty's Power Over Student Achievement, Rural School and Community Trust, www.ruraledu.org Washington, D.C. February 9, 2000

Snell, Lisa, *Whittled Away: Don't Blame Edison's failure on the market.* Reason Online, www.reason.com September 16, 2002

Steffens, Heidi and Cookson Jr., Peter W., *Limitations of the Market Model*, Education Week, Volume 21, Number 43 www.edweek.org, August 7, 2002

Stone, John E., Cunningham, George, K. and Crawford, Donald B. *Improving Teacher Quality in Oklahoma: A Closer Look,* OCPA Policy Paper, Number 01-7, Oklahoma Council of Public Affairs, Oklahoma City, Oklahoma, October 2001

Sykes, Shinika A., *School Leaders Defend Utah Public Education* Salt Lake Tribune, Salt Lake City, Utah, October 31, 2002

The Neighborhood School, Tackling Memphis' Toughest Kids, Compassion & Culture, Capital Research Center, Washington D.C. January 2001

The Portsmouth Declaration: A Call for Intellectual and Moral Excellence in Schooling, The Insider, Number 282, The Heritage Foundation, Washington D.C., April 2001

Toomer-Cook, Jennifer and Bernick Jr., Bob, *Utahns' support of UEA endures,* Deseret News, Salt Lake City, Utah, December 6, 2000

Toomer-Cook, Jennifer, *Lull in enrollment won't linger,* Deseret News, Salt Lake City, Utah, December 7, 2000

Top, Brent L. and Chadwick, Bruce A., *Raising Righteous Children in a Wicked World*, Brigham Young Magazine, Volume 52, Number 2, pp. 40-51, Summer 1998

Tradewell, Richard L. *Enemies of Vouchers,* Organization Trends, Capital Research Center, Washington D.C., June 2001

Tuohy, John and LaPolt, Alisa, *Voucher bill worries teachers, district,* Florida Today, www.floridatoday.com/news/local/stories/2001/mar March 24, 2001

U.S. Supreme Court will review Cleveland School Choice case, Institute for Justice, Washington D.C. September 25, 2001

Utah Foundation Research Report, Report Number 642, Utah Foundation, Salt Lake City, Utah, May 2001

Walberg, Herbert J., *Losing Local Control of Education: Cost and Quality Implications,* Heartland Institute, Chicago, Illinois, November 22, 1993

Webb, LaVarr, *Done right, Self-governing school clusters could soar,* Deseret News, Salt Lake City, Utah, February 14, 1998

When failure means success, Chicago Tribune, Chicago, Illinois, April 1, 2002

Wilkinson, Ernest L. and Skousen, W. Cleon, *Brigham Young University: A School of Destiny,* 1976

Wilson, Ted and Webb, LaVarr, *Do tuition tax credits really help Utahns?,* Deseret News, Salt Lake City, Utah, February 24, 2002

Withrow, Gail, *What is Wrong with Public Schools?* Capitalism Magazine, Bahamas March 21, 1999

Yahraes, Herbert, *Parents as Leaders: The role of Control and Discipline,* National Institute of Mental Health, Washington D.C. 1978

Books

Bronfenbrenner, Urie, with Condry Jr., John C., *Two Worlds of Childhood, U.S. and U.S.S.R.,* Russell Sage Foundation, New York, New York, 1970

Carter, Samuel Casey, No *Excuses: Lessons from 21High-Performing, High-Poverty Schools,* Heritage Foundation, Washington D.C., April 1, 2000

Coleman, James S., *The Struggle for Control of Education,* Education Social Policy, Local Control of Education, Random House, New York, 1970

Conant, James B., *Thomas Jefferson and the Development of American Public Education,* University of California Press, Los Angelos, California, 1962

Conant, James Bryant, *The Education of American Teachers,* McGraw Hill Book Company, New York, 1963

Cubberly, Ellwood P., *Public Education in the United States*, The Riverside Press, Cambridge, Massachusetts, 1919

Davis, Peggy Cooper, *Neglected Stories, The Constitution and Family Values,* Hill and Wang, a division of Farrar, Straus, and Giroux, 1997

Dewey, John, *Philosophy of Education: The Problems of Men,* Littlefield Adams & Co., 1946

Gutmann, Amy, *Democratic Education,* Princeton University Press, Princeton, New Jersey 1987

Hales Ph.D., Dawson, *Federal Control of Public Education, A Critical Appraisal,* Bureau of

Publications, Teachers College, Columbia University, New York, New York, 1954

Inglis, Alexander, *Principles of Secondary Education,* The Riverside Press, Cambridge, Massachusetts, 1918

Kotin, Lawrence and Aikman, William F., *Legal Foundations of Compulsory School Attendance,* Kennikat Press, Port Washington, New York, 1980

Miron, Louis F.and Wimpelberg, Robert K., *The Role of School Boards in the Governance of Education*

Must Jr., Art, *Why We Still Need Public Schools,* Prometheus Books, Buffalo, New York 1992

Russo, Charles J. *The Legal Status of School Boards in the Intergovernmental System,* School Boards: Changing Local Control, McCutchan Publishing Corporation, Berkeley, California 1992

Spring, Joel, *The American School 1642 – 1993 Third Edition,* McGraw Hill, USA, 1994

Spring, Joel, *The Universal Right to Education,* Lawrence Erlbaum Associates, Mahwah, New Jersey, 2000

Welch, John W. and Norton, Don E., *Educating Zion,* BYU Studies, 1996

West, E.G., *Education and the Industrial Revolution, Second Edition,*

West, E.G., *Education and the State, A Study in Political Economy, Third Edition,*

Court Cases

Reynolds v. United States, 98 U.S. 145 (1878)

Mormon Church v. United States, 136 U.S. 1 (1890)

Plessy v. Feguson, 163 U.S. 537 (1896)

Meyer v. State of Nebraska, 262 U.S. 390 (1923)

Pierce v. Society of the Holy Names of Jesus and Mary, 268 U.S. 519 (1925)

United States v. Butler, 297 U.S. 1 (1936)

Prince v. Commonwealth of Massachusetts, 321 U.S. 158 (1944)
Everson v. Board of Education of Ewing TP, 330 U.S. 1 (1947)

Zorach v. Clauson, 343 U.S. 306 (1952)

Brown v. Board, 347 U.S. *of Education* 483 (1954)

Torcaso v. Watkins, 367 U.S. 488 (1961)

Engle v. Vitale, 370 U.S. 421 (1962)

Abington School District v. Schempp, 374 U.S. 203 (1963)

Ginsberg v. New York, 390 U.S. 629 (1968)

Wisconsin v. Yoder, 406 U.S. 205 (1972)

San Antonio School District v. Rodriguez, 411 U.S. 1 (1973)

Goss v. Lopez, 419 U.S. 565 (1975)

Plyer v. Doe, 457 U.S. 202 (1982)

Mueller v. Allen, 463 U.S. 388 (1983)

Kadrmas v. Dickinson Public Schools, 487 U.S. 450 (1988)

Troxel et vir. v. Granville No. 99-138 June 5, 2000

Zelman v. Simmon-Harris 536 U.S.___ (2002)

Monographs

'Parental rights:' The Trojan Horse of the Religious Right Attack on Public Education, People for the American Way, Washington D.C., October 1996

Alexander, Kern, and Forbis, Jordan K., *Legal Aspects of Educational Choice: Compulsory Attendance and Student Assignment.* National Organization of Legal Problems of Education, Topeka, Kansas, 1973

Bauman, Kurt J., *Home Schooling in the United States: Trends and Characteristics,* U.S. Census Bureau, Washington D.C., August 2001

Beaumont, Constance E., *Historic Neighborhood Schools in the Age of Sprawl: Why Johnny Can't Walk to School.* National Trust for Historic Preservation, November 2000

Bickel, Robert and Howley, Craig, *The Influence of Scale on School Performance: A Multi-Level Extension of the Matthew Principle,* Education Policy Analysis Archives, Volume 8, Number 22, May 10, 2000

Branden, Nathaniel, *The Question of Monopolies,* The Objectivist Newsletter, Intellectual Ammunition Department, June 1962

Brouillette, Matthew J., *The Case for School: Restoring Parental Control of Education.,* A Mackinac Center Report, February 2001

Coulson, Andrew, *Markets Versus Monopolies in Education: The Historical Evidence,* Education Policy Analysis Archives, Volume 4, Number 9, http://epaa.asu.edu/epaa/v4n9.html, June 12, 1996

Dawson, Thomas C. and Helland, Eric, A., *Helping Hand: How Private Philanthropy and Catholic Schools Serve Low-Income Children in Los Angeles,* Pacific Research Institute for Public Policy, San Francisco, California, February 2001

Egan, M. Winston, *The Public Schools, Social Capital, and Our Democracy,* Brigham Young Forum, Provo, Utah, July 23, 2002

Ellig, Jerry, and Kelly, Kenneth, *Competition and Quality in Deregulated Industries: Lessons for the*

Education Debate, Draft, Texas Review of Law & Politics, Spring 2002

Everhart, Robert B., Editor and Karier, Clarence J., Foreward, *The Public School Monopoly, A Critical Analysis of Education and the State in American Society,* Ballinger Publishing Company, Cambridge Massachusetts, 1982

Finn, Jr., Chester E., Manno, Bruno V. and Ravitch, Diane, *Education 2001: Getting the Job Done, A Memorandum to the President-Elect and the 107th Congress,* December 2000

Herring, Mark Y., *At the Core of the Problem – reforming Teacher Preparation in Oklahoma,* National Association of Scholars,, Princeton, New Jersey, 2001

Howley, Craig B. and Bickel, Robert, *The Matthew Project: National Report*, U.S. Department of Education, Washington D.C., August 25, 1999

Irmsher, Karen, *School Size,* ERIC Digest 113, www.library.uiuc.edu/schoolreform/, July 1997

Klicka, Christopher J. *The Right to Home School, A Guide to the Law on Parents' Rights in Education,* Carolina Academic Press, 1995

Liberman, Myron and Marshall, J. Stanley, *Collective Bargaining In Florida School Districts,* The James Madison Institute, Tallahassee, Florida

Lines, Patricia, *Compulsory Education Laws,* Education Commission of the States, March 1985

Maxfield, M. Richard, *Why Can't Public Schools Improve?* Rough Draft,

Parsons, Tim, *The Community School Movement,* Community Issues, City University of New York, Institute for Community Studies, Flushing, New York, December 1970

Rudner, Lawrence M., *Scholastic Achievement and Demographic Characteristics of Home School Students in 1998*, Education Policy Analysis Archives, Volume 7, Number 8, Arizona State University, March 23,1999

School and District Size: A Report to the Legislative Education Interim Committee in response to H.B. 22, Utah State Office of Education, November 27,2000

Somerville Esq., Scott W., *The Politics of Survival: Home Schoolers and the Law,* Home School Legal Defense Association, Purcell, Virginia, 2001

Tax-funded School Vouchers, Some Concerns from a Freedom Perspective, The Separation of School and State Alliance, Fresno, California, Revised April 10, 1997

The Case for School Choice in Utah, Education Excellence Utah, West Valley City, Utah January 2003

Utah Schools: An In-Depth Look, A Sutherland Institute Policy Study, Sutherland Institute, Murray, Utah, August 1999

Young, Beth Aronstamm, *Characteristis of the 100 largest Public Elementary and Secondary School districts in the United States: 1998-1999,* U.S. Department of Education, Washington D.C., October 2000

Utah State Code

Utah State Code 20A-14-101, *State Board of Education districts.*

Utah State Code 20A-14-102, *State Board of Education districts – Definitions – Procedure if parts of the state are omitted.*

Utah State Code 20A-14-103, *State Board of Education members – When elected – qualifications—Avoiding conflicts or interest.*

Utah State Code 20A-14-104, *Becoming a candidate for membership on the State board of Education – Nominating committees – Membership – Procedure – Duties.*

Utah State Code 20A-14-105, *Becoming a candidate for membership on the State Board of Education – Selection of candidates by the governor – Ballot placement.*

Utah State Code 20A-14-201, *Boards of education – School board districts – Creation – Reapportionment.*

Utah State Code 20A-14-202, *Local Boards of Education – Membership – When elected – Qualifications – Avoiding conflicts if interests.*

Utah State Code 20A-14- 203, *Becoming a member of a local board of education – Declaration of candidacy – Election*

Utah State Code, 52A-1a-106, *School district and individual school powers.*

Utah State Code 52A-11-101, *Responsibility for minor required to attend school – Penalty for violation.*

Utah State Code 52A-11-102, *Minors exempt from school attendance*

Utah State Code 53A-1-401 *Powers of State Board of Education – Adoption of rules – Enforcement.*

Utah State Code 53A-1-402, *Board to establish minimum standards for public schools.*

Utah State Code 53A-1-402.5, *State board rules establishing basic ethical conduct standards – Local school board policies.*

Utah State Code 53A-1-402.6, *Focus on core curriculum.*

Utah State Code 53A-1-405, *State board to verify audits.*

Utah State Code 53A-1-601, *Legislative intent.*

Utah State Code 53A-1-603, *Duties of State Board of Education.*

Utah State Code 53A-1a-103, *Public education's mission.*

Utah State Code 53A-1a-105, *Parental participation in education process – Employer support.*

Utah State Code 53A-1a-106, *School district and individual school powers.*

Utah State Code 53A-1a-107, *State Board of Education assistance to districts and schools.*

Utah State Code 53A-1a-108, *School community councils authorized – Composition.*

Utah State Code, 53A-1a-201, *Strategic Planning for Public and Higher Education Committee – Membership – Quorum.*

Utah State Code, 53A-1a-401, *Purpose*

Utah State Code 53A-2-101, *School districts.*

Utah State Code 53A-2-102, *Consolidation of school districts.*

Utah State Code 53A-2-108, *School districts independent of municipal and county government – School district name – Control of property.*

Utah State Code 53A-2-201, *Child's school district of residence – Determination – responsibility for providing educational services.*

Utah State Code 53A-3-101, *Selection and election of members to Local Boards of Education.*

Utah State Code 53A-3-301, *Superintendent of schools – Appointment – Qualifications – Term – Compensation.*

Utah State Code 53A-3-402,*Power and duties generally.*

Utah State Code 53A-3-404, *Annual financial report – Audit report.*

Utah State Code 53A-6-102, *Legislative findings on teacher quality – Declaration of education as a profession – Annual report.*

Utah State Code 53A-6-103, *Definitions.*

Utah State Code 53A-6-104, *Board licensure.*

Utah State Code 62A-4a-201, *Rights of parents – Children's rights – Interest and responsibility of state.*

Utah State Constitution

Utah State Code, Article X, Section 1. [*Free nonsectarian schools.]*

Utah State Code, Article X, Section 3. *[State Board of Education]*

Utah State Code, Article X, Section 5 *[State School fund and Uniform School Fund –Establishment and use – Debt guaranty.]*

Utah State Code, Article X, Section 7, *[Proceeds of land grants constitute permanent funds.]*

Utah State Code, Article X, Section 8, *[No religious or partisan tests in schools.]*

Utah State Code, Article X, Section 9, *[Public aid to church schools forbidden.]*

Utah State Code, Article X. Section 2. *[Defining what shall constitute the public school system.]*

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